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TREATMENT OF WOMEN UNDER SOCIAL SECURITY (Held in Conjunction with Women's Rights Day in Congress, Washington, D.C.; and Administration's Proposed Cuts in Social Security, Cleveland, Ohio)

COMPLETED

HEARINGS

BEFORE THE

TASK FORCE ON SOCIAL SECURITY AND WOMEN

AND THE

SUBCOMMITTEE ON RETIREMENT INCOME AND EMPLOYMENT

OF THE

SELECT COMMITTEE ON AGING HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

FIRST SESSION

FEBRUARY 4, 1981, WASHINGTON, D.C., AND JULY 20, 1981, CLEVELAND, OHIO

Comm. Pub. No. 97-293

VOLUME III

Printed for the use of the Select Committee on Aging

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TASK FORCE ON SOCIAL SECURITY AND WOMEN

MARY ROSE OAKAR, Ohio, *Chair*

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TREATMENT OF WOMEN UNDER SOCIAL SECURITY
(Held in Conjunction with Women's Rights Day in Congress)

WEDNESDAY, FEBRUARY 4, 1981

U.S. HOUSE OF REPRESENTATIVES, TASK FORCE ON SOCIAL SECURITY AND WOMEN, OF THE SUBCOMMITTEE ON RETIREMENT INCOME AND EMPLOYMENT, AND THE SELECT COMMITTEE ON AGING

Washington, D.C.

The task force met, pursuant to notice, at 10:55 a.m., in room 2212, Rayburn House Office Building, Hon. Mary Rose Oakar (task force chair) presiding.

Members present: Representatives Oakar of Ohio and Ferraro of New York.

Also present: Representative Schneider of Rhode Island.

OPENING STATEMENT OF CHAIRWOMAN MARY ROSE OAKAR

Ms. OAKAR. Good morning.

I want to begin the congressional hearing on the inequities in the social security system affecting women.

First of all let me congratulate the Congresswomen's Caucus and the many women's organizations, all of who are here today, for making Women's Rights Day in Congress possible. This event is indeed timely, for the issues confronting women are as urgent as ever. The women of America are accorded second-class citizenship. Moreover, this onerous badge of discrimination knows no age boundary. It is as burdensome for younger women seeking employment as for older women entering retirement. The time has long since passed for righting these wrongs.

The treatment of women under our Nation's premier retirement program, social security, has been of special concern to me in my years in Congress. In 1979, Senator Claude Pepper, chairman of the House Select Committee on Aging, created the Task Force on Social Security and Women. I was honored to be appointed chair.

Since that time the task force has held numerous hearings on the subject. We have also received large amounts of mail each and every month from women across the country. These women are confused and angry about their status under the program and are demanding reform. The magnitude of the problem is awesome. Our social security program in one way or another touches the lives of almost 95 percent of all adult women in the United States—indeed, all Americans.

Let me just say parenthetically that I saw this morning many young people in the audience who are here for Women's Rights Day, making the rounds to see their Members of Congress. I am delighted to see that. Sometimes we tend to forget about our insurance plans and the necessary pension reforms. I feel it's very hopeful, seeing

so many people of various ages concerned with the social security system.

Before we begin receiving expert testimony from our distinguished witnesses—and I want to thank them publicly for being here—let me try to place the problem in perspective. Here are a few distressing statistics:

That 72 percent of the elderly poor in America are women.

That the average monthly benefit for women who retire at 65 is about $250 a month, or less than $3,000 a year.

That 71 percent of the people receiving supplemental security income, the aged, blind, and disabled with limited resources, and who fall below the official designated poverty line, the poorest of the poor, are older women.

And that the majority of single older women receiving social security have no other major source of income.

These figures comprise nothing less than a national scandal. They are a horrible blemish on a social program which in other respects has served this society well since 1935.

In addition to the failure of the social security program in meeting the most basic economic needs of women, the program contains serious inequities. Under the present program, a woman can receive benefits as a covered worker or, if she is married, as a dependent spouse or ex-spouse. She cannot receive both benefits in full.

When dependent spouse's benefits were added to social security, most married women worked in the home. However, as more married women have entered the paid labor force, serious inequities have emerged between one-earner and two-earner couples because of the dual entitlement provision. Furthermore, gaps in protection exist for women who combine roles of homemaker and paid worker. These gaps are most harmful to disabled homemakers and divorced women with limited experience in the paid work force. The effect of these inequities are just as serious as the inadequacy of benefits for older women. They conspire to condemn our Nation's older people, especially older women, to lives of poverty.

It is imperative that the Congress act immediately to correct these deficiencies in social security. It is also necessary for young and old, men and women, to educate themselves on these issues and unite for constructive reform.

When the Presidential debates were held in my city of Cleveland, I, as a good Democrat, was pleasantly surprised to hear then-candidate Reagan say that he knew the social security system was inequitable toward women. So, we're going to hold him to that debate, that some people thought he won, and we're going to demand reform.

I am pleased to announce this morning that I have introduced in the 97th Congress a five-bill package that will resolve many of these issues. I will submit a summary of these bills for the record with the number attached. You may obtain a summary of the bill from the table on my left.

[The material submitted by Chairwoman Oakar follows:]

SOCIAL SECURITY MODERNIZATION ACT (MANDATORY EARNINGS SHARING)—H.R. 1513

The combined earnings of a husband and wife during their marriage shall be divided equally between them for purposes of determining eligibility for, and the amount of, old age and disability benefits. The bill maintains the cur-

rent treatment of, among others, children's benefits, requiring that all earnings be credited to the wage earner for the purpose of calculating those benefits. The bill contains a present-law guarantee that, if the combined benefits of an individual and his or her spouse would be greater without application of earnings sharing, it shall not apply. The bill also mandates periodic Congressional studies of the operation of Earnings Sharing. Full-scale Earnings Sharing (excluding present-law guarantees) will be implemented by 2010, contingent upon the assessments, evaluations, and recommendations of the Congressional studies.

INHERITANCE OF EARNINGS CREDITS BY SURVIVING SPOUSE OR SURVIVING DIVORCED SPOUSE—H.R. 1514

When a spouse dies, the surviving spouse or surviving divorced spouse automatically "inherits" the deceased spouse's earnings credits to the extent that the credits were earned during their marriage. The couple must have been married to each other for a continuous period of at least three years immediately prior to the spouse's death or the date the divorce became final. Disabled worker benefits could be paid at any age to disabled individuals based on their records as altered by inheritance. Disabled widow(er)s who gain disability insured status only through the use of inherited credits must meet the test of disability that is presently applied for disabled widow(er)s who claim survivor's benefits. The bill contains a present-law guarantee that, if the benefits of a widow(er) would be greater without application of credit inheritance, it shall not apply. Present-law guarantees will be terminated by 2010, contingent upon the findings and recommendations of mandated Congressional studies to determine impact. Where the deceased spouse has other survivors entitled to benefits on his or her account, for benefit purposes, the Social Security Administration will treat his or her earnings as if the inheritance had not occurred.

CREDIT SPLITTING AT DIVORCE—H.R. 1515

Credit splitting at divorce will make Earnings Sharing mandatory upon application by either party following a divorce. At the time of the divorce, if the marriage lasted at least three years, either party could apply for earnings credits. The Social Security earnings credits received in the years of marriage by both spouses would be added together and each spouse would be credited with half of the combined total. Earnings credits from years before or after the marriage would be unaffected. Thus, divorced homemakers or secondary earners could gain entitlement to benefits as retired workers. Credits gained as a result of credit-splitting could be used to gain entitlement to disability benefits. In those cases where combined benefits of both spouses would be higher under present law, credit splitting would not apply.

TRANSITION BENEFIT—H.R. 1516

This bill provides for payment of a "transition benefit" to the widow(er) of an insured individual upon the wage earner's death, if the surviving spouse is at least 50 years old at the time of the wage earner's death and not otherwise immediately eligible for benefits. The benefits would be available only for the month in which the death occurred and for the next three months. The benefit would be 71.5 percent of the wage earner's primary insurance amount (PIA) or, if the spouse's own primary insurance amount is higher, 71.5 percent of that amount.

DISABLED WIDOWS/WIDOWERS UNDER 60—H.R. 1517

Under present law disabled surviving spouses are eligible for benefits at an actuarially reduced rate beginning at age 50, based on the deceased worker's primary insurance amount (PIA). This bill would make disabled surviving spouses eligible for benefits at any age and with no reduction.

Ms. OAKAR. Three of these bills will implement a modified version of earnings sharing, recognizing the principle of equality in the marriage and the economic contribution of homemakers to the financial well-being of the marriage. These bills will substantially improve protection and benefit levels for widows, disabled homemakers, and divorced spouses. These bills also contain safeguards, which assure that no woman will experience a reduction in benefits.

I am also introducing legislation that will increase benefits and liberalize the eligibility rules for disabled widows and for widows who fall into the so-called widow's gap.

Now I would like to introduce to you some of the witnesses. Not all of them are here as yet, but we will begin.

I am going to call on Martha Keys first. She is a former Member of Congress and a former Assistant Secretary for the Department of Education, who is always with us in spirit. She has been very supportive and helpful to me any time that we have been asked to pick a brain. Martha was one of the first individuals in Congress to recognize the inequities in the social security system toward women. If we pass the legislation, it will be largely because of Martha's past efforts.

Martha, we would like to see you back here as soon as possible. Now you may procced in any way you like. Either summarize your testimony for the record, or give the entire testimony.

STATEMENT OF MARTHA KEYS, FORMER MEMBER OF CONGRESS, AND FORMER ASSISTANT SECRETARY, DEPARTMENT OF EDUCATION

Ms. KEYS. Thank you, Madam Chairman.

I am delighted to be here. I wish to commend you on the work that you have done in the past 4 years on this terribly important subject. I am so respectful of the hard work it takes to look at the legislative problem and to try to submit a package of bills that will both deal with the whole problem and present reasonable, logical, and incremental pieces that might possibly be more acceptable to the members of the committee of jurisdiction that will have to act upon it. I think your work has been excellent, and I am very pleased that you are introducing the package of bills today, which are further refined even from the package you introduced last year.

I would like to submit my testimony and talk briefly about some of the issues and importance of the issue.

Ms. OAKAR. It will be included in the hearing record.

Ms. KEYS. You know, we hear a lot about the integrity of the social security system these days, and about the need to restore confidence in it. And yet, I'm afraid too many people think of this only as financial integrity. I suggest that one of the most essential elements needed to restore confidence in the social security system, a very fine system, is for the American people to know that system responds fairly to the productive work of individuals. That problem places the social security equity question at the forefront of action in this coming year.

New legislation concerning social security is essential. This question about a fair response to productive work of American citizens must be answered in order to restore the integrity of the system and the confidence of the American people in the system.

It is interesting to look at why the system doesn't fairly respond to women or their families. You look back and you find that it's really based on outdated concepts, which you addressed in your initial response. These concepts can be understood if you realize that the society at the time was based on four assumptions about families: men are

the sole breadwinners; women are typically housewives; there is no economic value to homemaking; and marriages lasted forever. That was, in essence, the majority view of society in 1935 when the Social Security Act was passed.

Based on those concepts, the benefit level for the individual retiree is computed by looking back at their average annual earnings record and applying a formula through which the benefit level is derived. It is easy to see that in today's world, where women do not fit into that pattern. As a matter of fact, 55.7 percent of the work force is women who are married and living with their husbands. Also, when you consider women today who are not only in the work force for a portion of their lives, but also choose to remain at home as childbearers, rearers, and homemakers, for some time, you see that the zero years that are added to the average annual earnings means a substantially lower benefit level for the majority of women when they reach retirement age. Indeed, if they have the option of recovering and receiving benefits based on the taxes they paid in at all, they certainly will be substantially lower.

Besides the zero-year problem, we have the interesting fact that two wage earner families are penalized for having both individuals in the work force. We are hearing a lot about the tax penalty problem these days. In fact, the Sunday paper had a large graphic charting of the exact tax penalty for two-income families. And yet, I would submit that the retirement penalty is a worse injustice. This lower benefit or lower response to individuals who have had the same earnings history over a lifetime is even more unjust and adds more to human misery because it comes at a time when income is not being earned and when nothing else can be done to supplement that amount of income.

I first became concerned about this issue in the 94th Congress, when I was serving my first term. There was practically no response from any of our institutions. I remember trying to get statistics from the Social Security Administration and found the Social Security Commissioner at that time had absolutely no idea of what I was talking about. His response was amazing.

There was little interest in the Congress at that time, because people had not begun to think about it. Women, and men too, had not begun to realize how heavily they were penalized by a system that was outdated by treating women primarily as adult dependents.

In the 95th Congress there was more interest and activity. Your joining in the effort, and the new Congresswomen's Caucus, taking a large interest in this subject, resulted in a mandate for the Social Security Administration to bring forth a study. Therefore, in 1979, when the in-depth study proposed a number of ways to solve the problems of the system, both Secretary Califano and Social Security Commissioner Ross took an active and supportive role in admitting the problems and putting together the resources to try to come up with proposals and statistics necessary to solve them. The situation was changed greatly.

In the 96th Congress, congressional hearings were held for the first time. You chaired excellent hearings with the Task Force on Aging. Also the committee of jurisdiction, the Social Security Subcommittee of the Ways and Means Committee, held hearings on the problem.

Senator Kassebaum also devoted a day of hearings in the Senate. So I would suggest that the progress, evident in the amount of statistics, the amount of interest, the amount of response and recognition of the problem by Members of Congress, and certainly in the unheralded number of workshops, seminars, that were held around the country was great. I personally attended 14 different State conferences in which many groups within a State worked together to put on a workshop and a seminar to make women aware of the problems and to involve them in reform work within their own organizations.

I believe with this excellent beginning, with your introduction of the bills, and with the women who have come here today to participate both in testimony and to pledge continuing support, the 97th Congress can be a Congress that will change social security and will bring this problem to an equitable solution.

I thank you for allowing me to come and participate with these other women, and again, I want to commend you, Chairwoman Oakar, on your excellent work in this area. I certainly want to assist you as much as possible in the future.

[The prepared statement of Ms. Keys follows:]

REMARKS BY MARTHA KEYS, SPECIAL ADVISER TO THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE, BEFORE THE HOUSE WAYS AND MEANS COMMITTEE, SUBCOMMITTEE ON SOCIAL SECURITY, NOVEMBER 1, 1979

I am happy to have the opportunity of testifying before this committee today on the important subject of Social Security. I wish to congratulate Chairman Pickle and members of this committee for your willingness to tackle this complex problem—the impact of the Social Security system on women in America today.

It's beginning to dawn on an increasing number of American women today that the Social Security system is not working well for them. And it's beginning to dawn on an increasing number of men as well that if their wives work, they are probably destined for a lower Social Security retirement benefit for their family because the system provides significantly higher benefits to one-wage-earner couples.

What then is the source of the problem? Why are so many women and their families not receiving equitable treatment or adequate protection from the system today? The answer is simple and reflects no devious intention—our society has changed and the social security system has not been adapted to reflect these changes.

Social Security was designed to serve the society of the early 30's. It was based on 4 assumptions: that women were typically homemakers, that men provide the income for the family, that housework performed by the wife had no economic value, and that marriages lasted for life.

Social Security was enacted in 1935 to pay monthly benefits to workers. In 1939, before the first payments were made, supplemental benefits, based on those same earnings, were added for the worker's dependents—his wife, children and dependent parents. The system worked well for the majority of families in the early years and, generally speaking, continues to work well for families that do not depart from this traditional pattern.

A look at the real world of today shows the dramatic change that has occurred. Ninety percent of the women in America will work outside the home during some portion of their lives. Although in 1940 only 17 percent of married women worked outside the home, today almost 50 percent do. There were 41 million women in the workforce in 1978 compared to 57½ million men. And 56 percent of these women are married—most of them working to enable the family to have sufficient income to provide necessities and desired opportunities for their families. And whether we like it or not, marriages do not all last a lifetime. The ratio of divorces to marriages has increased from 1 in 6 in 1940 to 1 in 2 in 1975.

The traditional roles of a wife as lifelong homemaker and a husband as a lifelong sole breadwinner are becoming less common. No one new pattern is emerg-

ing; instead there is a growing diversity of family roles and lifestyles. Some married women are lifetime homemakers; some are paid workers throughout their lives. Others leave the labor force for a number of years and return to work when their children reach school age; others wait until their children are grown before returning to work. Many divorced and widowed women return to work after their marriages end.

Although the participation of women in the workforce is extremely high and still increasing, their different participation must be recognized. Marilyn Block pointed to one problem in Issues and Concerns of Women Over 40 when she said "Women are punished if they elect to drop out of the labor force to raise families. Benefits are calculated on average lifetime earnings. For every year a woman stayed at home raising children, a zero was averaged in, lowering her lifetime earnings, and thus her Social Security benefit." Many women find that they can never build up enough of a work record to make up for those years out of the labor force.

The current structure of Social Security, which is of greatest benefit to a lifelong married couple in which only one partner is a wage earner, is no longer suited to the realities of American life. Failure to correct the inequities of the current system adversely affects the financial well being of a large and growing segment of American families, as well as the American economy.

In case of the two earner couple, which is increasingly becoming the norm, the married woman who worked for pay often gets as high, or higher, spouse's benefit as she would have received had she never worked for pay.

Let me review the facts bearing on this situation.

1. The majority of paid women workers are now married. In March 1979, 55.7 percent of paid women workers under age 55 were married and living with their husbands.

2. The dramatic increase since WWII in female labor force participation is due primarily to the entry of married women into the paid labor force. And, the rate of married female labor force participation is expected to increase throughout this century. In 1978, 55 percent of married women between the ages of 16–54 were paid workers. A recent Urban Institute publication, The Subtle Revolution, predicts that 75 percent of married women will be in the workforce. In fact, economist Ralph Smith predicts by 1990 an increase of 56 percent in the work force participation of mothers with children between ages 6 and 17. Inflation and economic trends seem to point to the continued and growing need of 2 incomes to provide for necessities and desired opportunities for families.

3. Married couples depend heavily on the wife's earnings. The median contribution of working wives to the family income is 38 percent.

4. Labor force projections indicate that married women will remain in the paid labor force for longer periods of time, thereby extending the period of time in which they contribute to Social Security.

Participation of married women in the paid labor force has been greatly misunderstood. Married women's wages have been one of the most significant contributors to the rapid rise in the standard of living enjoyed by American families since WWII. It is her wages which have largely paid for the consumer goods, such as cars and washing machines, which are essential to the continued growth of our economy.

Yet, a very high percentage of the working wife's work related expenses—Social Security contributions—represent a dead loss to the couple because her contributions have little or no effect on that family's retirement and surviving spouse's benefits.

The Social Security system does not treat equally one and two earner families with similar total lifetime earnings. The two earner family pays the same into Social Security, and yet they receive lower retirement and survivor benefits.

Let's take the example of Couple A, a one earner family, and Couple B, a two-earner family, both with $12,000 average annual earnings at retirement time.

	1-earner (A)	2-earner (B)
Worker benefit	$5,093	[1] $3,173
Spouse benefit	2,547	[1] 3,173
Total annual couple benefit	7,640	6,346
Survivor's benefit	5,093	3,173

[1] Worker.

Couple B, the two-earner couple, paid the same into the system as the one earner couple with the same average annual income. But, upon retirement, Couple B will receive $1,294 less in annual benefits. Furthermore the survivor of Couple B will receive $1,920 less than the survivor of Couple A.

The House Ways and Means Committee in 1971 recognized the inequity of this disparity between one and two earner couples and included a provision in H.R. 1, Social Security Amendments of 1971, to allow some two-earner couples to combine their earnings up to the covered wage-base level and then be treated as a one-earner couple. That provision was not in the Senate bill and was subsequently eliminated in the Conference.

The rapid rise in the divorce rate, which has doubled from 1967 to 1980 also raises problems under the present system. The continued application of outdated assumptions to today's world has caused injustice and hardship for many women and their families. Let me cite a few examples that came to my attention during the four years that I served in Congress.

1. Mrs. J has divorced after 19½ years. During those years she had worked entirely in the home and raised three children. Because her marriage did not last another 6 months, she was deprived of all benefits. Although the Social Security Act of 1977 reduced the duration of marriage requirement from 20 years to 10 years, the problem remains a severe one. The woman who has been a homemaker for even close to 10 years has an interruption in her record that can never be overcome in terms of averaging her lifetime earnings for a decent benefit level. That is even if she is lucky enough to find a job immediately.

2. Mrs. M is 8 years older than her husband. While she has worked outside the home, she does not have the requisite number of quarters to make her eligible for her own benefits. Thus, she must wait for her husband's retirement even though she will probably be 73 before she receives any benefit.

3. In a similar case that came to my attention, Mrs. H was divorced from her husband after 25 years of marriage. Although she found a job, she would not be able to work the requisite number of quarters before her retirement age. Her former self-employed husband had no intention of retiring soon and her only chance at retirement income was to work years beyond her own retirement age, or wait until her former husband retired, became disabled or died. It is interesting to note that her benefit would be higher if he died, although her own income needs would not change.

The examples of such anomalies are endless. The U.S. Supreme Court in the Goldfarb case in 1977 struck down one of the presumptions about dependency with regard to the different kinds of proof required of male survivors of female workers. This was the second time in two years that the Supreme Court had struck down a provision of the Social Security Act for its discriminatory assumptions based upon sex. Indeed, I am told that there are cases in lower courts today that have the potential of striking down more of the systems' dependency aspects. I believe you have 3 alternatives—ignore these issues, deal with them with stop-gap solutions, or you can take a serious look at a comprehensive revision of the system. I would suggest that the only responsible alternative is the last.

There has been a growing awareness of the problems related to the structure of the Social Security system during the 70's. Members of the last 3 Congresses have introduced a variety of bills to address some of the problems. Many have tried to solve the problem of recognition of work in the home through special credits or additional taxes. Serious problems arose in defining the economic value of homemaking separately. One plan used general revenues to finance it, but it was difficult to determine who was a full-time homemaker with so many women in part-time work. One plan had additional taxes collected from the homemaker—certainly causing many to want to deny the full-time role.

In 1977 a HEW Task Force analyzed 8 different plans or approaches that had been formulated to solve some of the problems relating to treatment of women. They were: a combined earnings plan, child care credits instead of spouse benefits, working spouse benefit plan, 2 different homemaker plans, 2 different earnings sharing plans, and another plan based on benefit adjustments. That report concluded that "a series of workable options was needed so that policy-makers and public could have clear choices about alternative forms of individual and family protection under Social Security." The Social Security Act of 1977 mandated HEW to conduct a comprehensive study of the treatment of men and women under Social Security and bring forward some suggestions for eliminating the concept of dependency in the system.

Thus on February 15, 1979, Secretary Califano released the completed study, Social Security—Changing Roles of Men and Women with these clarion words, "The Social Security system as it now stands discriminates against women. It's not a question of whether but how to change the current structure to correct the inequities while retaining the strengths of the present system." The study with which you are familiar presents a number of limited options as well as two comprehensive options—one an earnings-sharing model and the other a 2-tier model employing some features of earnings sharings in the work-related tier. Commissioner Stan Ross has shown his commitment to solving the problem by taking an active role in sparking a national debate to increase understanding of the problems that are so clearly revealed in this study.

The Administration has not yet taken a position on any one proposal. However, as a former member of Congress, I was a co-sponsor of the Equity in Social Security Act which introduced the concept of earnings sharings for retirement benefits. It is a concept understood and recognized by all and used in the way we collect taxes from married individuals and in other laws regarding joint ownership of property. It respects the equal contribution of both partners to a marriage and would permit them to establish work records reflecting their contribution to family income whether it be through work inside or outside the home. This record of an equal share of the family earnings would stay with the individual through divorce or death. A divorced spouse would carry her own record with her and would not suffer a reduction in benefits because of years out of the workforce. A woman would not need to wait until her husband retired before she could retire if she were older. A homemaker would be able to establish her own earnings record and both she and her family would be covered in some circumstances in case of death or disability.

In 1977 there were 146 women for every 100 men over 65. Of the 13 million women over 65 in 1979, 72 percent of them had income less than $5,000 per year. In fact, the median annual income of these 13 million women was $2,813 compared to $5,479 for the 9 million men over 65. Nearly all of these women are affected by Social Security. This is the dimension of the problem.

The earnings sharing concept of work-related benefits responds positively to many of the inequities: it recognizes the economic contribution of the homemaker and thus solves the problem of zero-earnings years for averaging; it ends the gaps in protection for divorced spouses; it gives equal benefits to equal earnings couples and to the survivors of those couples; it helps women to meet the recency of work test for disability benefits; it reduces the difference in protection between single and married women workers; and ends the duplication of tax paid by married women workers because the benefits are related to earned and shared credits.

I urge the members of this committee to study carefully the options presented for debate in the study. A social security program that basically views women as dependents in lifelong marriages is out of step with the times. Our social security program has to accommodate the varied and flexible work and family patterns of contemporary American society.

The facts are clear. American families and our economy depend on the incomes derived from two wages. The trend toward two earner couples is expected to continue to grow throughout this century.

I firmly believe that failure to adapt the system to the changes that have occurred could lead to the erosion of confidence in the system and increased resentment of the payroll tax; a decrease in the financial well-being of the fastest growing segment of American families, the two-earner family, relative to the one-earner family; and an increase in the number of impoverished widowed and divorced women who are in need of expensive assistance programs because their retirement benefits do not adequately recognize their work both inside and outside the home.

I also firmly believe that our Social Security system is a strong system—an intergenerational compact that is firm and the "best" buy. A great part of its strength has been its adaptability to change that have been brought before you.

Thank you.

Ms. OAKAR. Thank you very much, Martha.

If you don't mind, and if you can stay, I would like to call on our other witnesses who are part of the panel. We have a great coalition on this panel: Eleanor Smeal, our wondeful Gray Panthers, and Martha Keys.

I will call on all of you and then if you don't mind, I will ask questions after that.

My next witnesses are Maggie Kuhn and Thelma Rutherford, who are women who are interested in all age groups. I think sometimes they get labeled as proponents and activists for the Gray Panthers, but I know of so many other issues that they have helped with.

Maggie Kuhn, as everyone knows, is the founder and convener of the Gray Panthers, and, of course, Thelma is the Gray Panthers' National Steering Committee member. Both have appeared before us, the Select Committee on Aging, many, many times. Both of you are responsible for some of the progressive legislation affecting older, middle aged, and younger people in this country. I am delighted that you accepted our invitation.

Maggie, if you would like to begin.

STATEMENTS OF MAGGIE KUHN, NATIONAL CONVENOR OF THE GRAY PANTHERS; AND THELMA RUTHERFORD, CHAIR, TASK FORCE ON MINORITY OUTREACH, NATIONAL GRAY PANTHERS

Ms. KUHN. Thank you.

It is a great privilege to participate in this hearing and Women's Rights Day. This is a great day for all of us.

I might also observe that I'm wearing my marching hat. It's about 22 years old, and it has been on many marches. It's still going strong, and I offer it symbolically for what we are going to do today.

The Gray Panthers are deeply grateful for your concerned and highly effective leadership in the Congress, and we give general support to the legislation you are proposing. When we have reviewed it at length with our task forces and our national steering committee, we may have substantive comments and commendations to offer you at a later date.

We observe that the economic problems of women, especially women over 60, are complex and enormous. We can't expect the social security system to correct all economic discriminations and deprivations which exist in our sexist and ageist society.

Elimination of sex discrimination in the society and in the workplace must be our goal and a primary focus of Women's Rights Day. It should be the objective for action along with sorely needed social security reforms.

We remind the task force and the committee on which you serve that there are many different types of women living today. Women like myself have lived under different assumptions about our roles and responsibilities from younger women. When social security was established in 1935, and enacted a year later, women were socialized to be homemakers and mothers and to be dependent on their spouses throughout their lives.

In the 1980's the scene is very different for us and for the world. I am so glad you referred earlier to the young women who are present here. As you know, the Gray Panthers are a coalition of people of different ages, young people and old people working together for a just and humane society. The hearing today addresses a very, very impor-

tant issue that pertains to social justice, particularly economic justice.

As I said, in the 1980's the scene is very different, for women and for the world. More than 50 percent of the women in the United States are in the labor force at some time in their lives. The majority of women in the labor force work intermittently at a lower salary scale than men. They are impoverished in old age because of societal discrimination in the workplace, and the fact that social security continues to be earnings based and related.

A formula must be found to protect women who have not been earners but who have been homemakers and mothers. Therefore, social security reforms should not eliminate dependents benefits until a new mechanism is found to replace those benefits for older women.

Minimum benefits for older women should be maintained. We feel very strongly about this. Proposals to eliminate minimum benefits have been made to eliminate "double dipping". But "double dipping" should not be eliminated at the expense of low wage earners. We believe it can best be handled by including Federal employees in the social security system.

We support economic justice and are working for the rights of women to secure equal employment, equal pay for equal work, and equal access to the workplace.

We support earnings sharing. But this sharing should not eliminate the disadvantaged women who have not worked outside the home and who have no earnings benefits to share. Women who later decide to be homemakers should have the option to do so. Because women have served as care-givers for children and older relatives, justice requires access to child care, across the board, as well as day care and respite care to assist women who are the care-givers for elderly relatives. And we believe, in this age of liberation, a liberation for men as well as women, that women and men should share in household tasks and caregiving, but not until there is equality for women throughout society. The disadvantaged women should not be penalized by removing the few benefits they now enjoy.

Gray Panthers strongly support effors to assist displaced homemakers with counseling, job training, and employment that truly recognizes and utilizes their skills, skills acquired in their homemaking and parenting responsibilities, skills that our sexist, ageist, racist society desperately needs in order to survive, to better our own lives and value what society has despised and largely adduced us to throw away.

The social security system, even with reforms, cannot deal with the results of discrimination on the basis of sex and age without strong leadership, encouragement from women's groups, and forthright action by Members of Congress.

It is our hope that Women's Rights Day will enable us to return to our homes and to continue to educate ourselves about our present social security system. We must document and reflect on the injustices that plague us which my colleague, Thelma Rutherford, will present at this time.

Thank you very much for the privileges of appearing here today.

Ms. OAKAR. Thank you.

Let me just comment very briefly. You mentioned your concern for the working spouse as well as the homemaker, and you don't want to favor one over the other. We think we have struck a happy balance in our mandatory earnings sharing bill. We don't eliminate homemakers' benefits, but we do provide for various studies until the year 2010, and at the same time we correct the injustice toward the working spouse. We are also concerned about disabled women who go in and out of the labor force. Someone out of the labor force more than 5 years is not covered. We think we have plugged up the loopholes that you are concerned about. So, I hope you will take a good, close look at that bill, Maggie, and give us your ideas on it.

Ms. KUHN. We look forward to that, and welcome the legislation that you have introduced.

Ms. OAKAR. Thank you.

Thelma?

STATEMENT OF THELMA RUTHERFORD

Ms. RUTHERFORD. Good morning. I am very grateful to you for holding these hearings and for the opportunity to present my views.

As a member of the Gray Panthers National Steering Committee and a commissioner of the Citizens Commission on Pension Policy, I am indeed interested in the bills being presented here today. They seem to present positive positions for women as survivors in the social security program, as well as somewhat equalizing the benefits for all survivors. We are aware of the inequities promoted in the Social Security Act in the past and of some of the proposed cuts and changes in the future. It stands to reason that I am pleased with much of the language in your bills and with the intent of these hearings.

My testimony should further enlighten you and the committee of some of the problems incurred in the present system, and the noncoverage of many survivors, especially the widows, who are considered pension losers.

Some of these widows are women usually under the age of 48 without school-age children or whose children are no longer in college, so they are without any funds except their meager savings for emergencies, such as doctors or rent increases.

I am aware of one family in this situation where the widow's only son is turning 18. He is unmeployed, not planning to go to college—due to lack of funds and motivation—without adequate work skills or employment history. The widow, too, has no employment history or experience and skills in the work world by which she can become financially and economically solvent. The emotional impact and stress from this situation has not only caused her economic difficulties but has caused some flare-up of her health problems.

Last year we received a communication from a widow whose husband died prior to reaching age 65. He was still working, apparently planning to continue, but he expired before reaching his goal. Social security was his sole insurance, but she was "too young," at age 46, to receive any benefits. She had no work history, and no marketable employment skills. Training was out of the question for she had no funds, and she was too "healthy" to qualify for supplemental security. Hence, she was thrown into dispair and traumatic fear.

Some of the social service agencies are hurriedly trying to find resources for retraining these women and support services to help them maintain their sanity. We are all aware that employment opportunities are very meager even for the trained and skilled unemployed in Washington, D.C. and other cities. It is almost hopeless for those whose experience lack many of the necessary qualifications for work.

In another situation, a 54-year-old widow married only 18 months before her husband died. When he died she could not get his private pension since she was his second wife. The first wife had died. She was able to get only a lump sum as beneficiary, which was only enough to cover the funeral and burial expenses. She received only $200 from social security, and I've been wondering what happened to the $55 balance that she was entitled to for funeral expenses. She was told by the company that she will have to wait until she is 60 years old to get her husband's social security. She is now stranded.

A railroad retirement widow who is 55 years old and has been told that she cannot qualify for her husband's pension until age 60. Since she is a diabetic, there is little she can do, so she is looking for baby-sitting jobs.

Last, but not least, there is the 75-year-old widow whose husband had been killed on his job, before social security, and who had nothing but the workmen's compensation for herself and her six children to live on until they were old enough to go to work. She had to work for a meager salary. However, when it came time for her retirement, she was told that she did not have enough quarters to qualify for her own social security, so she had to go back to working and at the age of 70 she found few employers. But, she stuck it out for 3 years, doing cleaning of offices and maid work, until she was able to qualify for her own $30 a month social security check. Fortunately, she had children and her own resourcefulness which provided her adequate income until her death at 85. Supplemental security income had not been established at that time.

I am sure I could provide you with many other situations and examples, which illustrate the need for the revisions and proposed legislation of the social security system, but time is limited and I should close.

However, I do feel that attention of this committee should be given to providing coverage not only for widows and others who qualify for social security and private pensions. We must think of those less fortunate, the single and frail elderly who have not been a part of the work world, unable to qualify for even the supplemental security income, due to age restrictions. What is the financial forecast for this group?

My best wishes go out to this committee as you wrestle with the many problems and recommendations you will receive here today.

Ms. OAKAR. Thank you very much, Thelma.

Before we proceed, I would like to introduce two distinguished members who have joined me. Congresswoman Ferraro is a member of the task force.

Congresswoman, would you like to say a few words?

Ms. FERRARO. I would be delighted to.

I have a statement, and I ask that be placed in the record.

Ms. OAKAR. So ordered.

STATEMENT OF REPRESENTATIVE GERALDINE A. FERRARO

Ms. FERRARO. First of all, I want to apologize for being late. I was at a meeting. The President's Commission on the Agenda for the Eighties issued a report that, if anyone took seriously, would wipe out New York City. Since I come from that area and we're already losing four seats, I thought it was incumbent upon me to be there and voice my opposition to the report.

I was also an adviser to the Commission, so I derided them a bit because they never called us up to ask our advice.

I stopped there first, and shortly I'll be talking to a group of students on the women's role in a male-dominated environment. But in between I wanted to come by just to tell you that I am totally supportive of your actions today, on women's lobby day. I think it's a real good first step and I think making your presence known, as so many special interest groups have in this Congress is most important.

I think your focusing in on the economic issues as you have today—and I congratulate you for holding these hearings—is an important step. Too often the male-dominated environment around here considers that women are only interested in the two issues of equal rights, the ERA, and abortion rights. I think what we have to do is let them know there are other issues that are of major concern to us. And certainly the role of women in the social security system is of major, major concern to all women in this country.

I am pleased to participate. I am delighted to see so many of my friends at the table here. I'm sorry that I missed part of your testimony, but I will study it. I thank you for your advice here today, and thank you for allowing me to participate.

[The prepared statement of Representative Geraldine A. Ferraro follows:]

PREPARED STATEMENT OF REPRESENTATIVE GERALDINE A. FERRARO

Good morning, I am very pleased to be here today to welcome you to these hearings on Women and Social Security. I would like to take this opportunity to commend Congresswoman Oakar for holding hearings on a matter of vital concern for all women. As a member of this Task Force, I have been concerned, as so many of you have been, about the inequities women face in the social security system. I hope that with these hearings and the efforts of today's Women's Lobby Day, we can make progress towards giving this matter the attention it deserves.

It is indeed unfortunate that social security is based on an outdated notion of the traditional American family and their work patterns. In fact, in light of the economic hardships and inequities that the current system places on millions of American women, it is more than unfortunate—it is a travesty.

The social security system was born in an era when men went into the work force as the sole breadwinner and the wife remained at home to care for the house and family. This is not the typical family today. Last year, nearly half the married women in the country worked. 62 percent of the women between the age of 24 and 35 work outside of the home. Most are working because in these inflationary times one paycheck is no longer sufficient to meet the growing cost of living. Given the recent economic indicators, the economic pressures which are forcing women to leave the home and enter the workplace will not abate in the foreseeable future.

It is not only the working woman who shifts from home to workplace who finds herself penalized, but also widows and divorced women. As many of you are aware, a divorced woman must have been married for ten years in order to receive dependent benefits. The woman who was married less than 10 years

and who contributed to the maintenance of the family will receive nothing. Many divorced women rely entirely on their social security benefits for their income and find themselves thrust into poverty because of the inadequacies of these benefits.

Widows, as well, suffer under the current system. Benefits are available to widows only if they are disabled or age 60 and over. In light of the fact that older women are the fastest growing poverty segment in the United States, this is a tragedy. Forty percent of all older women live in poverty. Seven out of ten social security recipients who are eligible for welfare happen to be women. The system, instead of providing security for these women, is accelerating their entry into poverty.

It is evident to me that the time has come to restructure the social security system so that it responds to the needs and contributions of women. Therefore, it will be increasingly important for this Congress to deal with the problem. Congresswoman Oakar has introduced five bills relating to social security. H.R. 1513–1517. This new social security legislation is a serious attempt to grapple with the inadequacies and inequities that women currently face as homemakers, divorced spouses, workers, and widows in the social security system. I applaud her efforts.

Of course, correcting the inequities of the social security system will not completely remedy the retirement income problems facing older women. With this in mind, I have introduced a private pension reform bill that provides greater protection to women under private pension plans, thus complementing Congresswoman Oakar's efforts. I am hopeful that with our combined efforts, we can assure the women of this country the financial security which they deserve.

Thank you.

Ms. OAKAR. Thank you very much, Congresswoman.

I would like to also call on Congresswoman Claudine Schneider. One of the great things about this issue is that it's a nonpartisan issue. It affects the spectrum of women irrespective of political persuasion, age, et cetera. Claudine, we are delighted to have you with us today.

STATEMENT OF REPRESENTATIVE CLAUDINE SCHNEIDER

Mrs. SCHNEIDER. Thank you.

I would like to point out to those people who have been here through the length of the hearing what an important role Mary Rose Oakar has played in pulling together this hearing. Being a new Member of Congress, I appreciate her leadership, and her picking up the ball and running with it in these hearings on social security.

I must admit, I ran in 1978, unsuccessfully, and as you know, it is often said that sometimes we women have to work twice as hard to get where we want to go. I finally made it, but during that process the one issue that was so often raised to me, as I look back on the campaign trail, was that issue of bringing economic equality to women. You can be sure that it also will be high on my priority list. I intend to focus on social security and its inequities.

Mary Rose mentioned parties. I am a Republican. There were 52 Republicans elected to Congress this year, and four of us happen to be women. There were no Democratic women elected. I have had the opportunity to meet with the other male Members and I certainly hope all of you will work especially hard on them, for my sake and your sake. There's nothing like a team effort.

I don't want to take up any more time because we have some important testimony to hear, and I will read through it. I apologize for being late. I was getting my committee assignments. I look forward to working with the Congresswoman's caucus.

Thank you.

Ms. OAKAR. Thank you very much, Claudine.

Our next witness probably needs no introduction. She has been one of the leaders in economic justice for women in the country. Eleanor Smeal is president of the National Organization for Women, one of the major organizations that is responsible for our Women's Day today. I want to thank you, Eleanor. Your testimony is always welcome, and I'm delighted you're here today.

STATEMENT OF ELEANOR CUTRI SMEAL, PRESIDENT, NATIONAL ORGANIZATION FOR WOMEN

Ms. SMEAL. Thank you, Congresswoman Oakar, Congresswoman Ferraro, and Congresswoman Schneider. I think this is the first time, of all the times I have ever testified here in Congress, that the panel was composed of three Congresswomen. I know that we urge that your numbers multiply and divide real quick.

On behalf of the National Organization for Women, which now has a membership of over 125,000 people, males and females, dedicated to the cause of equal rights for women, I particularly want to thank you, Congresswoman Oakar, for holding these hearings.

We felt it was particularly important that this Women's Rights Day in Congress, the first of many, would examine and scrutinize one of the largest and oldest public institutions in America, the social security system, a system which as we all know discriminates against females. We feel the economic issues of our times must be examined here from the standpoint of the disparate effect that they have on one-half of the population, the female half.

We also feel it is particularly fitting to discuss this issue at this time, when a new administration and a new Congress is being established. We are very, very concerned about some of the suggestions of cost cutting in the social security system which would inevitably fall most heavily on women.

I would just like to say at this time that if there is any message that this Women's Right Lobby sends to Congress, it is that the Women's Rights community and those concerned with the needs of women are strong, united and together. We will not allow the grave economic conditions of our society to be solved with programs that fall most heavily on the female population. We need solutions to our current inflation and unemployment, but we cannot forget that part of the population that is already paying too heavily in the inflated and unemployed economy that we're living in.

The new administration is considering two major cuts in social security: one, that the age be raised to 68 for eligibility. Such an increase would have an alarming and drastic impact upon elderly women. Of course, right now the age 65, which seems fair, has serious and disparate effect upon females, because the system is really based upon dependency.

Just to review, I was talking about the increase to age 68. In the average marital couple, the female is younger. There is a gap between her and her husband. Therefore, at this stage most of the people who qualify or who claim or request early retirements, so-called early retirements, are females. They have no choice. Their husbands are either declaring it, and thereby they must go on, or they have an early widow-

hood or divorce and are not able, because of sex discrimination and age discrimination, and the fact they were probably homemakers all their lives, to start a new career at age 60. What will happen at age 68? It means the widow's gap we have already been alarmed about will just increase, and instead of solving the problem it will make far worse the problem of inadequate benefits.

Ms. OAKAR. They can't hear you in the back, Ellie.

Ms. SMEAL. I'll speak up.

The next problem, cutting benefits across the board, we feel, has a worse impact upon females right now, today—and these are 1979 statistics—but it hasn't improved much in the past year. So, the average woman makes about 55 percent of what the average man makes on social security. For 1979, that figure was, the yearly income under social security, $2,800 to $2,813 for the average female, versus over $5,479 for males.

Cutting females' benefits, what does it mean? It means in this day a woman will have to choose between heat or food. I have been very concerned about how to put adequately in words what it's like to live on this meager income, so that people understand the women's movement is not dealing with the side issues of our day, but are dealing with the real survival issues for many millions of women. Thirteen million are on social security system right now, 65 years of age and older. Issues such as the equal rights amendment are not symbolic issues but issues of, literally, life and death.

The equal rights amendment, if passed, would have important and immediate effects on the elderly. The social security system, which is sex discriminatory, as Congresswoman Oakar has said, and all of us have said so many times, would have to be revised to come into line with the equal rights amendment, which would require constitutionally that all Federal programs not discriminate on the basis of sex. So actually, one of the reasons we must pursue the constitutional approach is that the statutory approach has been so slow and that Federal programs themselves, such as social security, are literally robbing women daily from a decent living.

We are talking about today, in 1980, a condition which has euphemistically been called by the National Advisory Council on Economic Opportunity as the feminization of poverty. It's a beautiful line, the feminization of poverty, but it has a very ugly meaning.

This esteemed body predicts that by the year 2000 females will comprise the poor sector almost totally. Right now they're the overwhelming majority of people in the poverty area. The social security system has contributed greatly to this problem. We are, in fact, victimized by the social security system, and there are many ways that we are victimized. My testimony enumerates some of those ways.

If you're divorced and have less than 10 years of marriage, you have no coverage at all. I could go on to each one of them, but I think I can summarize it best in an anecdote.

I appeared on the Phil Donahue Show and I was debating Phyllis Schafly. As you know, our office constantly says they are profamily and prohomemakers. The irony is, it is the women's movement that is fighting for homemakers' benefits.

I was pointing out on this particular show how the social security system, in fact, victimizes and discriminates against homemakers,

because under the system homemakers do not have benefits in their own name. For example, they have no such thing as disability benefits. I was painting a picture of how, indeed, our system works against both homemakers and women who work outside the home, and that, in fact, they pit one class of woman against the other, each bidding for the meager benefits. But, of course, the benefits are sacrosanct with males. You don't even discuss their benefits, which are at 100 percent.

After the show—and there were about 5,000 people in the audience—an elderly woman managed to get up front. She grabbed my hand, with a lot of bedlam and a lot of thinking, and she put in my hand two crumpled up dollar bills. She said, "Look into my eyes. There's so much noise here, you won't hear me unless you do." She was so intense that I couldn't take my eyes off of her. As tears streamed down her face, she said, "You're saying the truth, but you're not saying it strong enough; you're not really saying how bad it is." She said, "I'll tell you my story." We tried to get her name afterward and couldn't find her. She told me she was a divorcee, that she was living on social security, and that her husband had declared for worker's benefits and, as such, she received one-half of his benefits because she had been married to him more than 19 years. He now had married a younger woman and had decided to go back to work. And not only were all of his benefits cut off, but her meager one-half of the benefits were cut off. There was no way she could get a job, and she was destitute. This is not a story; it's reality. It's just one of the inequities of the dependency on one person that the system has put females in.

We are calling for massive reforms. We know that in today's political climate people are talking only about budget cuts. We also know we represent a constituency that only is alive and well, but is beginning to realize that they deserve better.

I believe American females, for the first time in history, voted differently in 1980, and that it can actually be documented by polls and has been documented by polls, that more and more we are going to be voting our economic interests. But in the meantime we're going to be up here representing our whole economic interest.

So we salute Congresswoman Oakar, who has submitted a package of reform bills. We know these are not the total answer, but these are strong steps in the right direction. We pledge that the women's movement will fight for these reforms, as we fight for the equal rights amendment, which demands comprehensive reform of the social security system. When we do this we are serving notice to the conservative majority of both Houses that they were not elected with a mandate against women's rights but, rather, in protest to the current economic system and situation. Among those people protesting are females, who realize now more than ever that they deserve more. They have loud voices, both in Congress and in organizations represented by me and by those sitting here at the table with me, that will fight for fairness and equality.

[The prepared statement of Ms. Smeal follows:]

PREPARED STATEMENT OF ELEANOR CUTRI SMEAL, PRESIDENT, NATIONAL ORGANIZATION FOR WOMEN

On behalf of the National Organization for Women and our more than 125,000 members who are dedicated to the cause of equal rights for women, I would like to thank you for holding these hearings.

On the occasion of Women's Rights Day in Congress, and in the first weeks of the new Administration, we should scrutinize one of our largest and oldest public programs—Social Security. The new Administration is reputedly considering cost-cutting steps which will inevitably fall most heavily on women. It is ironic that we must now act to protect the already meager benefits women receive from Social Security. For when we pose the question—Are women treated fairly by the current Social Security Act?—the only answer is no! When two former Secretaries of the U.S. Department of Health and Human Services, the Social Security Administration, and the Social Security Advisory Council all acknowledge that the law is unfair to women, then the conclusion is inescapable. The law must be changed in order to provide women with equal rights. The issue is no longer whether the law must be changed, but how.

NOW congratulates Congresswoman Oakar for her bold and imaginative leadership in offering legislation to redress the sex bias in the current law. We believe that her proposals are a step in the right direction and we support her efforts to ensure that women receive fair and equal treatment in his program.

Women face two evils in old age: poverty and dependency. When we consider options for reforming the law, we must keep these in mind. For no reform will suffice unless these two afflictions of aged women are eliminated.

Our society purports to place the highest value on the role of women as mothers and homemakers. Many would argue it is the bedrock on which social stability rests. But, if we look behind the reverential cant about motherhood and homemaking, we find a different and scandalous reality. Our mothers confront an old age of degrading poverty and dependency. While government officials proclaim victory in the war against poverty, their own statistics tell another story. Between 1978 and 1979, poverty among elderly women grew. There was a statistically significant *increase* in both the number and percent of persons aged 65 and over whose incomes were below the poverty level. Seventy percent of these impoverished old people are women.[1]

Social Security has left our mothers in poverty. The plain fact is that aged women are most dependent on Social Security payments as their sole income source. Yet, women receive lower benefits than men. In 1979, the median Social Security benefit for all women over age 65 was $2,813 compared to $5,479 for men over age 65.[2]

Recently, the National Advisory Council on Economic Opportunity stated that the "feminization of poverty has become one of the most compelling social facts of the decade."[3] If we are to eliminate the poverty of the aged, we must reform the Social Security law to provide equal benefits for our mothers.

Secondly, we must confront and eradicate female dependency in the Social Security law. Today, the Social Security law is structured so that married homemakers receive benefits only by virtue of their dependent relationship to a covered male. The concept of basing benefits on dependency is not just symbolically offensive. It is the root cause of poverty for older women. By definition, to be dependent is to be vulnerable. And, as we know too well, to be vulnerable is often to be victimized. Women are victimized in the following ways:

1. If they are divorced after less than ten years of marriage, they have no coverage for those years.

2. If they are divorced after ten years of marriage, they must wait until their former husband retires or dies in order to receive benefits. Receipt of benefits in no way is based on the woman's need. Thus, dependency continues even after marriage ends.

3. If a married woman is older than her husband, she must wait until he retires to receive her own benefits, even though she may be well past retirement age.

4. If a homemaker is widowed, she cannot receive benefits until age 50 (if she has young children in her care) or until age 60 if her children are grown. And, she can only receive full benefits if she waits until age 65 to retire.

5. In 1974, 745,000 homemakers were disabled but were ineligible for disability benefits because they could not meet the recency of work test.[4]

6. If a married woman works and contributes to Social Security, then she will in the name of dependency, receive a lower return for her tax dollars. In 1979,

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[1] "Money Income and Poverty Status of Families and Persons in the United States: 1979". Bureau of Census, October 1980.
[2] Testimony of the Honorable Martha Keys before the House Ways and Means Committee, Subcommittee on Social Security, Nov. 1, 1979.
[3] Critical Choices for the 1980's, August 1980.
[4] 1974 Survey of Non-Institutionalized Adults, Bureau of the Census.

2,270,000 retired women who had paid Social Security taxes were no better off financially than they would have been had they never worked for pay and never contributed to Social Security.[5]

7. As her husband's dependent, rather than his partner, widows receive only a part of their former spouse's benefit. Aged widows are condemned to poverty because the law does not regard the worker's benefit as the widow's property.

8. If a married worker drops out of the paid labor force to care for her family, she is penalized by having zero earnings entered into her savings history. Thus her benefits are further reduced.

The conclusion is inescapable. The Social Security law must be changed to end the poverty and dependency of women. To accomplish these ends, NOW calls for legal reforms based on the following principles:

1. Marriage is an economic partnership in which Social Security is the jointly owned property of both spouses for the duration of the marriage.

2. For purposes of determining eligibility for disability, retirement, and survivor's benefits, each partner in the marriage must be credited with one-half of the accrued Social Security benefits, and the earning record must be portable in and out of marriage.

3. The benefit structure must not penalize women for homemaking and caring for family members.

4. Nor must women be penalized for earning lower wages than men. Under the present system, men are twice as likely to get the maximum benefit as are women with equal years of work. Thus, a discriminatory wage structure is perpetuated by the Social Security benefit structure.

5. Surviving spouses must be able to fully inherit the benefits of the deceased spouse.

6. Married women who pay Social Security taxes on their wages must get a full return for their tax dollars.

7. In rectifying the sex bias of the present law, benefits to which women are currently entitled must not be lowered. We firmly reject the zero cost assumptions of the 1979 U.S. Department of Health, Education and Welfare report, Social Security and the Changing Roles of Men and Women. Female poverty and dependency can only be eliminated by raising benefits for women. This cost can and must be borne by society as a whole.

8. Reform must be based on an understanding that all women—both those who work for pay and those who are full-time homemakers—are victimized by the present law. Options which pit women against women in a degrading scramble for inadequate benefits are not acceptable.

Given these principles, we are particularly troubled by cost-saving steps being considered by the new Administration. For example, raising the retirement age would lengthen the period of the widow's gap and otherwise impose hardships on women who must now retire before age 65 either because they cannot find employment or because their older spouse has reached retirement age. Furthermore, proposals to cut benefits will inexorably increase the number and proportion of aged women who live below the poverty line.

Finally, let me state that the reforms we seek are logical extensions of the principles of equality embodied in the Equal Rights Amendment. Ratification of the ERA is essential precisely because it creates the legal basis for repudiating the sexual bias in the Social Security law. Female poverty and dependency are perpetuated by the Social Security Act. Ratification of the ERA would require revision of the law. The Social Security System must be revised. Elderly women's lives depend upon it. Equality of treatment under the law must and will become the basis for action by this Congress. The women of America understand where their interest lies and warmly support our efforts today.

Ms. OAKAR. Thank you very much.

I would like to ask one question, and anyone who wants to answer it can, briefly.

We know there are many polls taken that suggest the American people do not want the social security benefits lessened, and that it is the one issue they feel strongly about. What they want is economic justice within the system.

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[5] Social Security Administration, unpublished data, 1979.

What can we do to influence, or what can we do to influence the powers that be, namely, Congress and this administration, to assure the people that they are not going to suffer reprisals if they support economic justice in the social security system? Would anybody like to take on that question?

Ms. SMEAL. I think we must organize constituency of women, and I think that's what we're in the process of doing, to give the kind of political support to politicians and Congressmen and women to fight for change.

I also feel we desperately need a coalition within Congress that will lead the fight. I feel you all will have tremendous support in the community for doing so.

NOW is contemplating holding hearings on social security inequities in various parts of the country this spring. One of the things that has happened is that people have sterilized the names. They call benefits "transfer payments," they call beneficiaries "recipients," without bringing these people to life. We think we must bring the elderly women's case to life, and present it to the public.

I'll just give you one example on this——

Ms. OAKAR. It has to be short, though.

Ms. SMEAL. Elderly women are choosing between heating oil and food. Literally, that's the case. We must make people aware of this harsh reality, and I think the media will be helpful.

Ms. KEYS. If I could add one thing, Madam Chairman—and I can't respond to your direct question—but I think we should not forget this is an economic issue that affects the largest growing segment of American families, the two wage earner family. The drain of social security taxes paid usually for the woman worker often returns no retirement benefits. The only benefit accrued is protection against disability while the woman is engaged in work. But, the drain from the family of this income with no eventual gain in retirement benefits is an issue right at the heart of the burning economic issues that everyone is facing.

I think we must not forget that a woman is a worker, either in the home or in the paid workforce. Social security inequities cause a tremendous economic drain on families and on the vitality of the buying power of our economy. Women's wages have brought expansion, increased the ability of the ordinary family to buy the appliances: The washer and dryer; the freezer; the second car; et cetera. The average contribution of the wife's wage to a family is 38 percent.

We must view social security inequities in the perspective of the total population. It is an economic injustice that hinders attempts to deal with inflation, forcing economic hardship on individuals and families.

Ms. OAKAR. Thank you.

Do you have any questions?

Ms. FERRARO. No. With the limited time we have, I will not ask questions.

I just want to thank you all, and you, Ellie. I appreciate your testimony. I represent 72,000 senior citizens and I have more than one coming in with these "heat or eat" problems. The choice is impossible. Hopefully, we'll be able to address it, not only with Mary Rose's bills, but with other legislation that will deal with private pensions, which

are frequently looked at as an earner asset and not a family asset. If we can focus in that direction, maybe we can increase the women's rights to that asset and alleviate the problems of elderly women as well.

Thank you very much for your testimony.

Ms. OAKAR. Thank you very much for coming.

I want to do something a little unprecedented, because I know you want to hear the witnesses. I am going to ask Edna Wolf, Tom Woodruff, Judy, and Nancy to come up here and address us. I think it would be very helpful and I think most people will be able to hear you from this vantage point.

Because we are under such a time constraint, which I hadn't realized, I am going to ask each of you to submit your full testimony for the record and possibly give a 3-minute summary so that we may ask you a few questions. I think a lot of people would like to hear some of your responses, also.

Ms. OAKAR. Our first witness is Edna Wolf, who is the executive director of B'nai B'rith Women. We are very, very delighted to have you here. Thank you for coming.

You may proceed, Edna.

STATEMENTS OF EDNA WOLF, EXECUTIVE DIRECTOR, B'NAI B'RITH WOMEN; DR. THOMAS C. WOODRUFF, EXECUTIVE DIRECTOR, PRESIDENT'S COMMISSION ON PENSION POLICY; JUDY SCHUB, LEGISLATION DIRECTOR, NATIONAL FEDERATION OF BUSINESS & PROFESSIONAL WOMEN'S CLUBS, INC.; AND NANCY DUFF CAMPBELL, CODIRECTOR, CENTER FOR LAW & SOCIAL POLICY

STATEMENT OF EDNA WOLF

Ms. WOLF. Thank you, Congresswoman. My name is Edna Wolf, executive director of B'nai B'rith Women, on whose behalf I am speaking. I would like to thank you for giving me the opportunity to appear today and express our strong gratitude to you for holding these hearings.

The B'nai B'rith Women support the Social Security Modernization Act, now under consideration by this committee.

In the interest of time, on behalf of B'nai B'rith Women, I would like to associate our organization with all the previous remarks, with particular emphasis on the fact that a great portion of our 120,000 members are, in fact, older women. We feel very strongly about this issue.

Our women, our individual members, all of them, when I come here to speak—I know it seems like just me, but over and over again the B'nai B'rith Women have passed resolutions and sent resolutions to assembled bodies, calling for these reforms for years. It is just a pleasure to be here, to be able to advocate for them, and to associate our organization with all the remarks.

I thank you.

Ms. OAKAR. Thank you very much, Edna. I would like to personally thank the B'nai B'rith Women for their support. Thank you very much. You're a powerful lobby.

Ms. WOLF. You will be hearing from all 120,000.
[The prepared statement of Ms. Wolf follows:]

PREPARED STATEMENT OF EDNA WOLF, EXECUTIVE DIRECTOR, B'NAI B'RITH WOMEN

My name is Edna Wolf. I am the executive director of B'nai B'rith Women on whose behalf I am speaking. I should like to thank you for giving me the opportunity to appear today. B'nai B'rith Women support the Social Security Modernization Act, now under consideration by this committee.

Founded in 1897, B'nai B'rith Women is a Jewish organization of 120,000 members. Their commitment to the community is demonstrated through a wide range of programs designed to promote human understanding. In addition, educational programs deal with many of the complex issues of our time. As an organization for women, we are particularly mindful of the specific problems that confront women. We are more specifically concerned with the economic aspect of problems that beset elder women who are among the U.S. population's poorest element.

It is clear that the social security program, developed over 40 years ago, was designed within the framework of what was then the prevalent standard family structure. Women were full-time homemakers, the men were the sole source of economic support. The present income retirement system comprises provisions such as "dual entitlement" which requires women to choose between receiving benefits as workers or as dependents of their husbands. Other provisions are both inadequate and inequitable in that they deny disability benefits for most homemakers who have not worked for 5 of the last 10 years, and grant lower benefits to women workers than to male workers, because of their irregular labor force participation. These provisions demean the traditional role of women as homemakers and mothers in shaping our society through the nurturing of their children.

The world has greatly changed within the last 40 years. Two factors have contributed to dramatic changes in our own society. More women are entering the work force. From a labor force of 17 percent in 1940, the figure has climbed to 47 percent in 1977. The divorce rate was one for every six marriages in 1940. In 1975 the ratio was one to two, thus the increase in the number of women as single heads of households has been dramatic. In today's marriages, more women opt to be equal economic contributors to the family, often combining the role of worker with that of homemaker.

While wives may have become equal partners in terms of contributing to maintaining a household and of supporting a family, they are not equal in terms of receiving the benefits that should be their due. Yet social security legislation has remained oblivious to societal changes, thus disbursing more enequity and injustice to a growing number of women. These can be categorized as follows: Those who work by choice and contribute to society through their particular skills; those who work out of necessity, and thus help their husbands carry the financial burden, if they are married; those who work because they are the sole financial support of their family because of divorce or widowhood. To these categories, we must add a particularly poignant group, that which comprises elderly women, who often depend entirely in social security payments in order to survive. One hesitates to use the world "live" in view of the condition of subpoverty that many elderly women must endure.

The existing inequities do not affect women only. However, men are more likely to benefit from other sources of income such as pensions and retirement plans than are women. Indeed, it is estimated that only 12 percent of women 65 years of age and over receive private pension plan benefits. By denying women full social security benefits, on an equal basis with men because they were unable to join the paid work force for reasons of child rearing, the existing system is not only demeaning the traditional role of women, but denying the enormous value to our society of the task of raising children and maintaining a home.

A partnership that entails an equal division of labour has always existed between husbands and wives, albeit on different terms in the past. As vital as men's economic support of their families has always been, it was never more vital than was the task of caring for the children and the home assumed by women. Examples abound of men and women who achieved celebrity and who were not timid in attributing their achievements as adults to the influence yielded

by their mother in shaping their character, yet women, conditioned by society, were willing in the past to accept their role as secondary to that of their husbands and therefore to resign themselves with unwarranted humbleness to the injustice meted out to them. As our consciousness as to our own value has risen, so have our expectations—and rightly so. We are no longer willing to wait in the aisles for charitable bits and pieces to be handed out to us by a system written by men, for men. We feel that our contribution to society as women must be recognized and our economic needs met. It is a matter of simple justice.

The time has come for spouses to have social security protection on an equal basis, eliminating the dependency factor which has traditionally left widows or divorcees without such protection. We support the present legislation under consideration in the firm belief that it answers at last, the needs of American women on a just basis.

Ms. OAKAR. Our next witness is Tom Woodruff, who is Executive Director of the President's Commission on Pension Policy.

I know that some of you may not have seen the working paper that was done by the President's Commission, and their report. I would urge that you read it. It's very, very interesting. Much of it certainly supports some of the arguments that some of us have made relating to the inequities.

Tom, I'm really delighted that you're here. You can proceed in whatever fashion that is most comfortable for you.

STATEMENT OF THOMAS C. WOODRUFF

Dr. WOODRUFF. Thank you very much. I really do appreciate the opportunity to come here today and testify before this task force.

As you know, we are currently drafting our final report that will be submitted to Congress on February 26. In that report we will address many of the issues that have been discussed here today, both in the social security system and in the employee pension system, as well as the benefit programs.

I hope my appearance today will indicate to you and other members of the task force the interest of the Commission and the staff to be available to the Congress in the remaining months of the Commission's life. We will continue to provide information on the problems of our retirement programs.

I will not repeat many of the remarks that have been made already concerning the problems for survivors, divorced spouses, and retired couples, but I would like to review solutions to the problems.

A variety of reforms to social security have been suggested, many of which are in your bills, which would correct many of the problems. The first one, which is in your first bill, is to apply earnings sharing to social security whereby each spouse would be credited with half of the combined covered earnings of the couple. Each spouse would receive benefits based on his or her own social security record which would include half the sum of the couple's combined earnings during the marriage, plus full credits for earnings when not married.

Another approach that we have studied and has been the subject of past debate in Congress is the double-decker approach, which establishes two tiers of social security benefits. The first-tier benefit would be a minimum benefit paid to all aged and disabled persons, whether or not they had covered employment as defined under social security.

The second-tier benefit would be directly proportional to covered

earnings. This benefit could be used in conjunction with earnings sharing and inheritance of a deceased spouse's credits by the surviving spouse. Without these two provisions, the double-decker system would not address the needs of divorced or widowed people.

Another approach that is also included in one of your bills is the inheritance of credits, that would allow widowed persons to inherit the earnings credit of their deceased spouses. We consider that a very important issue.

Another approach has been the dropout year. It allows a specified number of years spent out of the work force to provide for credits, to take into account women's roles in providing child care support.

Finally has been the homemaker credit proposals as a replacement for current spouse's benefits.

These issues and possible solutions are reviewed more thoroughly in the paper that you mentioned, and I would like to ask that it, as well as a related paper entitled "Pensions and Divorce," be inserted in the record of this hearing.

[See appendix 1, p. 73 for the working papers submitted by Mr. Woodruff.]

Dr. WOODRUFF. The latter paper relates to the problems of spouses receiving benefits from employee pension plans upon divorce.

In summary, social security has not provided adequate income to many elderly women. This has been so clearly stated earlier today. Without change, it probably will not provide adequate income for a large segment of aged women in the future.

While younger married women now experience higher rates of labor force participation, this will not necessarily insure their financial security in old age. Many women may still interrupt their work careers to raise children, and this can result in an adequate retirement income for those who spent part of their careers as homemakers and who later become divorced or widowed.

I am pleased to see so much legislative activity concerning the issue of women in retirement. There is increasing interest in pension issues around the country today, and we are very concerned, in this era of cutbacks, that we will be providing easy targets for the elderly as we consider our current economic and budget problems.

The problems highlighted by your bills are urgent and should be addressed soon. I hope also that additional legislation will be introduced to address the problems of women in employee pensions. Lack of pension coverage and long vesting requirements prevent many women from eventually receiving pension benefits. As our "Pensions of Divorce" paper points out, many women also lose entitlements upon divorce.

Our report will also recommend that employee pensions be provided for all workers, and that the benefit be portable. I hope that this task force will look at this proposal very seriously.

Legislation calling for a minimum universal employee pension system would dramatically improve pension entitlements for women in the future.

Thank you.

[The prepared statement of Dr. Woodruff follows:]

PREPARED STATEMENT OF DR. THOMAS C. WOODRUFF, EXECUTOR DIRECTOR, PRESIDENT'S COMMISSION ON PENSION POLICY

I appreciate the opportunity to appear before the Task Force today and discuss some of the inequities of the social security program as they affect women.

The changing status of both women and men has significant implications under public and private retirement systems. Over the past several years there has been an increase in the number of women in the labor market, an increase in divorce rates, and improved longevity of women relative to men. These changes imply that the traditional family structure—a breadwinning husband with a nonearning wife in a lifelong marriage—is now the exception rather than the rule for today's working population.

Improvements in mortality rates have meant that the majority of women over age 65 are without spouses. Unfortunately, however, 72 percent of all people in poverty over age 65 are women. While the current system is suited for women who are lifelong homemakers, it does not provide commensurately for paid work by both spouses.

The Commission has carefully examined the inequities and inadequacies that exist under social security. We are currently drafting our final report and will release it to Congress on February 26. However, I would like to quickly review the problems relating to women under social security.

SURVIVORS

Widowed persons, comprise about two-thirds of the elderly poor. Under social security, survivors are entitled to receive benefits based on their deceased spouses' wage record in place of their own wage record. Yet this benefit may not be adequate.

For example, if a working spouse dies several years before the survivor reaches retirement age, the survivor will receive benefits computed on an outdated earnings base. Unlike all other beneficiaries, the deceased spouse's earnings record is indexed by increases in wages only to the worker's death; the earnings record is then indexed by the inflation rate.

Alternatively, if a survivor elects to take an actuarially reduced benefit as early as age 60, benefits are markedly lower. Most young survivors do in fact opt for early retirement benefits.

Moreover, survivors of one-earner couples receive greater benefits than survivors of two-earner couples when the average income of the two families is the same. Two-thirds of the couple's social security benefits continue to the survivor of a one-earner couple, while only one-half of the couple's social security benefits continue to the survivor of a couple where each spouse earned equal benefits.

DIVORCED SPOUSES

Another inadequacy of the social security system is the area of benefits to lower earning, divorced spouses. Divorced spouses are eligible for spouse and survivor benefits under the current system assuming the marriage lasts at least 10 years. However, approximately three-fourths of divorced women work and in the vast majority of cases, divorced women do not receive spouse benefits. Additionally, the benefits many divorced women earn are low because of years spent out of the labor force during the marriage.

Of greatest concern from both an adequacy and equity point of view, is the two-thirds and one-third distribution of benefits between the worker and the divorced spouse. The spouse benefit was designed as a supplement to the larger primary benefit and it may be inadequate for a person maintaining a separate household.

RETIRED COUPLES

A third area of concern focuses on retired couples. Retired couples with the same family income may receive different total family benefits depending upon the proportion of income earned by each spouse. One-earner couples receive greater benefits than two-earner couples. All one-earner couples receive spouse benefits equal to 50 percent of the primary benefit based on the covered income of the worker. Two-earner couples may receive no supplemental spouse benefit or, is some cases, spouse benefits based only on the higher earning spouse's benefit which reflects only part of the family's income.

POSSIBLE SOLUTIONS

The retirement income systems have been challenged for not providing adequate income to many elderly women and for inequitably treating women in families and as workers. A variety of reforms to social security have been suggested which would correct problem areas. Reforms include earnings sharing, a double decker system, inheritance of earnings credits, homemaker credits and child care drop-out years.

If earnings sharing were applied to social security each spouse would be credited with half the combined covered earnings of the couple. Each spouse would receive benefits based on his or her own social security record, which would include half the sum of the couple's combined earnings during the marriage plus full credits for earnings when not married. An earnings sharing approach is the most comprehensive because it eliminates the spouse's benefit, directly confronts the problems of divorced spouses and with suitable modifications can deal adequately with survivors.

The double decker system would establish two tiers of social security benefits. The first tier benefit would be a minimum benefit paid to all aged and disabled persons, whether or no they had covered employment. The second tier benefit would be directly proportional to covered earnings. This system would be used in conjunction with earnings sharing and inheritance of a deceased spouse's credits by the surviving spouse. Without these two provisions a double decker system would not address the needs of divorced or widowed people.

Inheritance of credits proposals would allow widowed persons to inherit the earnings credit of their deceased spouses. Typically these proposals would provide greater or equal benefits to retired survivors of lifelong marriages.

Drop out years proposals would allow a specified number of years spent out of the work force carry force caring for children to be omitted from the social security benefit calculation. These proposals are based on the premise that the job of caring for young children is of sufficient importance and value to society at large that it should not reduce one's retirement benefit.

Homeworker credit proposals have been suggested as a replacement for current spouses benefits. Under these proposals, credits earned from work at home would be added to credits earned from work outside the home.

These issues and possible solutions are reviewed more thoroughly in a working paper entitled, "Working Women, Marriage and Retirement" prepared by the Commission staff. I would ask that it and a related paper, "Pensions and Divorce" be inserted in the record.

In summary, the social security has not provided adequate income to many elderly women and, without change, probably will not provide adequate income to a large segment of aged women in the future. While younger married women now experience higher rates of labor force participation, this will not necessarily insure their financial security in old age. Many women may still interrupt their work careers to raise children. This can result in inadequate retirement income for those who spend part of their careers as homeworkers and who later become divorced or widowed.

Ms. OAKAR. Thank you very much, Tom.

Ms. FERRARO. If I might just make one comment, with reference to your testimony concerning ERISA, legislation is in already that would address vesting requirements and the period of time in which it would occur. We suggest elimination of at least four or five of the inequities currently in the ERISA system which harm women, so we've already got that going.

Dr. WOODRUFF. Good.

Ms. OAKAR. Yes, and Congresswoman Ferraro is the main thrust behind that.

Thank you very much, Tom.

Ms. OAKAR. Judy Schub is our next witness, the director of legislation for the National Federation of Business & Professional Women's Clubs, Inc. We are very happy you came on behalf of your member-

ship. It's a large membership that covers every corner of the country, so we thank you very much for being here.

STATEMENT OF JUDY SCHUB

Ms. SCHUB. I want to thank you for the opportunity to appear here today.

We are the National Federation of Business & Professional Women's Clubs, but everybody refers to us as BPW, and we do, too. We have over 160,000 members located in every congressional district in the United States.

We have long been concerned with the inequitable treatment of women under the social security system. In 1949, an item was adopted as part of the federation's legislative platform urging reform of the system to better meet the needs of women.

We all know that right now the social security system fails American women, both in terms of adequacy of protection, and equity. Because we are an organization of employed women, we tend to address those issues which affect employed women. I am not going to list here, because of the time, the specific inadequacies. I think they have been discussed, they are written about, and we're all pretty much aware of them. But the time is coming for us to look at what can be done.

We believe that the package of bills introduced by the chairman of this task force is an essentially sound approach to alleviating many of the problems arising from the current structure of the social security system. We firmly support the concept of earnings sharing because it is based on the principle that marriage is a partnership and that the family is a basic economic unit. I don't think I have to explain earnings sharing. It has been discussed, and I think many people in the room are familiar with it. There has been much written about it.

The effects for working women particularly are quite positive. I am going to skip over the specific effects and just mention one thing that is in the bill that we think is quite important.

H.R. 1513 provides a present-law guarantee to one-earner couples to protect them from benefits reductions resulting from the establishment of mandatory earnings sharing. I can't emphasize enough how important we think this provision is. We cannot achieve equity by reducing benefits. That doesn't serve the purpose. It is not acceptable to play off one group against another in any reform. That would be no better than what we have now.

We also support the inheritance of earnings credits by surviving spouses or surviving divorced spouses, and credit splitting at divorce, as appropriate transitional measures for moving into a full-scale earnings sharing program at some future time.

In addition, we support the idea of a transition benefit for the displaced homemaker who is left, through the death of a spouse, at age 50, with no means of support. She has no skills and she needs some time to gain employment or job skills so that she can get employment.

We commend the chair of this task force for her leadership in bringing to the fore the inequities and inadequacies which now plague the system. The time has come for change. While earnings sharing has

been discussed, and may need some refinement, or even some further study, we must not indefinitely delay action. We have been waiting too long to make the social security system more equitable and more adequate in meeting the retirement needs of older Americans.

Ms. OAKAR. Thank you very much, Judy, and thank you for your support.

[The prepared statement of Ms. Schub follows:]

PREPARED STATEMENT OF JUDY SCHUB, LEGISLATION DIRECTOR, THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

The National Federation of Business and Professional Women's Clubs, Inc. (BPW) was founded in 1919 to improve the status of women in the workforce. Since its establishment 61 years ago, the objectives of the Federation have remained the same: to elevate the standards and promote the interests of women in business and the professions; to bring about a spirit of cooperation among working women; and to extend and expand opportunities for women who work. Today, BPW represents over 160,000 members who live in all 50 states, plus the District of Columbia, Puerto Rico, the Virgin Islands and in every congressional district in the United States.

BPW has long been concerned with the inequitable treatment of women under the social security system. In 1949, an item was adopted as part of the Federation's legislative platform urging reform of the system to better meet the needs of women.

Recently, the social security system has come under close scrutiny for its treatment of women. Most agree that the system fails American women both in terms of adequacy of protection and equity. The shortcomings of the system are not the result of overt discrimination; rather they arise from the assumptions upon which the system is based. These assumptions—that men provide the family income; that women are primarily homemakers whose labor force participation is minimal; that family responsibilities, such as child care and homemaking have no economic value; and that marriages are permanent—were only partially true when the system was established and certainly do not reflect current realities for American women and the American family.

The social security system no longer meets the needs of either working women or homemakers. Because BPW is an organization representing employed women, our statement today will primarily address those issues which affect women who spend a substantial part of their adult lives in the paid labor force. The number of women who work outside the home is increasing every year. Women constitute 43 percent of the paid labor force. Nearly half (49 percent) of all married women were working in 1979, an increase of 30 percent over 1970. Almost two-thirds of all women in the labor force in 1978 were single, widowed, divorced or separated or had husbands who earned less than $10,000 a year. These millions of American women and their families are being shortchanged by the social security system.

Specific inequities in the system are as follows:

1. Married working women generally receive little or no additional benefit for themselves or their families from the social security taxes they pay. Their workers' benefits duplicate the benefits they would be entitled to as "dependents."

2. The system is heavily weighted toward single-earner couples in which only one spouse works, at the expense of two-earner couples and single persons. The two-earner couple often receives a lower retirement benefit than the one-earner couple, even when both paid the same amount into the social security system.

3. This bias toward single-earner couples extends to survivor benefits. The survivor of a two-earner couple often receives a lower benefit from social security than the survivor of a one-earner couple when their total average incomes were the same.

4. Women who work generally get lower social security benefits than men because their wages are, on average, much lower than men's wages (59 cents of every dollar earned by men) and because their careers are interrupted by traditional family responsibilities such as child-rearing. These years out of the labor force are counted as zero in computing their average lifetime earnings for social security.

5. Divorced women, even those who work for significant amounts of time, fare badly under social security. If a marriage is dissolved before 10 years, the

woman who did not work outside the home is entitled to no social security credits. After 10 years of marriage, a divorced spouse is entitled to 50 percent of worker's benefit, an amount that is often extremely inadequate to support a person living alone. The divorced spouse cannot receive this benefit until the working spouse retires, and more importantly, cannot supplement this benefit based on her own earnings, since she can only receive the higher of the two benefits. Her early contributions to the social security system (during years prior to marriage and child bearing) combined with later earnings after the marriage has ended may still not equal the 50 percent benefit, since years out of the labor force are average in as zero. This is particularly true for the woman whose ex-husband is in a high-paying occupation, but who, because of an interrupted work record, limited work experience and occupational segregation, holds a low-paying job.

BPW believes that the package of bills (H.R. 1513–1517) introduced by the Task Force's distinguished chairman, Representative Mary Rose Oakar, are an essentially sound approach to alleviating many of the problems arising from the current structure of the social security system. We firmly support the concept of earnings sharing, because it is based on the principle that marriage is a partnership and that the family is a basic economic unit. Under earnings sharing, payments into the social security system would be shared equally between spouses for each year of marriage. Each individual would be entitled to a primary benefit in her or his own right, consisting of a person's earnings while single and half a couple's combined earnings while married.

The positive effects of the earnings sharing proposal included in H.R. 1513, the Social Security Modernization Act, are as follows:

1. For two-earner couples, both spouses' payments into the social security system would be credited for eventual sharing, thereby eliminating the current situation in which married working women receive little or no additional benefit from the social security taxes they pay.

2. The disparity which now exists between one- and two-earner couples in retirement and survivor benefits would be reduced during the transition to earnings sharing and eliminated when full earnings sharing is instituted.

3. There is recognition of the value of homemaking and childrearing. Women who opt to stay at home to raise children for a number of years are not penalized for being out of the work force for this time.

4. Divorced women get better protection since each person is entitled to a primary benefit consisting of earnings prior to and/or following a marriage and half a couple's combined earnings for the years of marriage.

H.R. 1513 provides a present-law guarantee to one-earner couples to protect them from benefits reductions resulting from the establishment of mandatory earnings sharing. We think this provision is extremely important. Equity issues should not be resolved by reducing benefits to one group. Rather, it is imperative that current benefit levels be maintained for all groups during any transition to earnings sharing. A system which plays one group off against another is no better than our present system.

In addition to mandatory earnings sharing, we support other legislative proposals included in the package of bills introduced by Representative Oakar. The inheritance of earnings credits by surviving spouses or surviving divorced spouses (H.R. 1514) and credit splitting at divorce (H.R. 1515) are appropriate transitional measures for moving into a full-scale earnings sharing plan at some future date. These two measures address the very real needs of two groups, divorced women and widows, and are consistent with eventual establishment of earnings sharing. We further support, in principle, a transition benefit to be paid to a survivor of an insured individual, if the surviving spouse is over 50 years of age and not otherwise eligible for benefits. The needs of "displaced homemakers," women who have spent much of their adult lives out of the paid labor force, are great. Many of these women have, at the time of their displacement, no marketable skills and no sources of income. This transition benefit would provide a small cushion for these women, until such time as they can gain employment training or jobs.

We commend the Chair of this Task Force, Representative Oakar, for her leadership in bringing to the fore the inequities and inadequacies which now plaque the social security system. The system established over forty (40) years ago no longer meets the needs of millions of American women. The time has come for change. While the proposals discussed above may need refinement or even

further study, we must not indefinitely delay action to make the social security system more equitable and adequate in meeting the retirement needs of older Americans.

Ms. OAKAR. Our next witness has a very common last name. There is another task force related to social security and the directoress of the task force wants to cut out a lot of benefits. I don't want you to confuse our next witness with another witness whose last name happens to be Campbell.

Nancy Duff Campbell is the codirector of the Center for Law & Social Policy, and I am sure your thoughts are not related to the other Campbell, who would like to slash out and gut out the social security system. Nancy, if you would like to proceed.

STATEMENT OF NANCY DUFF CAMPBELL

Ms. CAMPBELL. Thank you, and thank you for that clarification.

With the Chair's permission, I would like to resubmit today the testimony that I presented on behalf of 10 national women's organizations at the task force hearings, I guess 18 months or so ago, and that testimony gives a sense of the breadth of the organizations. Testimony was presented on behalf of the Center for Women in Work, the District of Columbia branch of the YWCA, the National Conference of Puerto Rican Women, the National Council of Jewish Women, the National Women's Party, Rural American Women, Wider Opportunities for Women, the Women's Equity Action League Educational & Legal Defense Fund, the Women's Legal Defense Fund, and Women Working in Construction.

[The statement submitted by Ms. Campbell follows:]

STATEMENT OF THE DISTRICT OF COLUMBIA BRANCH OF THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION, THE NATIONAL COUNCIL OF JEWISH WOMEN, THE NATIONAL WOMAN'S PARTY, RURAL AMERICAN WOMEN, WIDER OPPORTUNITIES FOR WOMEN, THE WOMEN'S EQUITY ACTION LEAGUE EDUCATIONAL AND LEGAL DEFENSE FUND, AND THE WOMEN'S LEGAL DEFENSE FUND PRESENTED BY NANCY DUFF CAMPBELL, WOMEN'S RIGHTS PROJECT, CENTER FOR LAW AND SOCIAL POLICY, WASHINGTON, D.C.

I welcome the opportunity to testify before you today. This statement, prepared by the Women's Rights Project of the Center for Law and Social Policy and the Women's Legal Defense Fund, is offered on behalf on seven women's organizations.[1] Our remarks will be confined to issues of Social Security reform that particularly impact on women.

I. INTRODUCTION

The Social Security system is intended to provide income security to the aged, to the disabled, to survivors of workers, and to persons needing protection against medical costs for long-term disabilities or because of advanced age.

Although the protection afforded by the system has been expanded greatly over the past 40 years, the method of providing protection has not. Benefits are available to those who have worked a sufficient number of quarters in covered employment, with supplementary dependents' and survivors' benefits available for family members. The best protection is afforded to a life-long wage earner

[1] The District of Columbia Branch of the Young Women's Christian Association, the National Council of Jewish Women, the National Woman's Party, Rural American Women, Wider Opportunities for Women, the Women's Equity Action League Educational and Legal Defense Fund, and the Women's Legal Defense Fund. This is a resubmission of the testimony of these organizations presented to the Task Force in June 1979.

with a life-long unpaid homemaker. The system is based on a Cinderella view of the world which simply does not exist today. A brief review of reality as most women know it in 1979 illustrates the nature of the problems any reform of the Society Security system must address.

Lack of coverage of work in the home and the general dependency status of non- or low-wage earner spouses also result in particular problems upon divorce. Unless the marriage has lasted ten years or more, no dependents' or survivors' benefits are available to the divorced spouse. Divorced individuals must also wait until their ex-spouses retire before they can receive dependents' benefits. At a time when one out of every two marriages ends in divorce, these requirements impose hardships on many individuals and fail to recognize the contributions both partners make to a marriage no matter how short its duration.

II. SOCIAL SECURITY REFORM AND ITS IMPACT ON WOMEN

No plan that has been advanced to date adequately addresses all of these issues. The most promising plans, however, are those based on some form of earnings-splitting. The aspects of these plans that should be included in any reform of the Social Security system, rather than the adequacies or inadequacies of any particular plan, will be the focus of our testimony. We urge the Congress to consider carefully the issues addressed here and to adopt the framework for reform proposed in any forthcoming recommendations that it may make.

First, any plan for reform should recognize that marriage is a partnership in which the efforts of both spouses contribute equally to family income whether those efforts are based on work in paid employment or work in the home. An earnings-splitting plan does this by crediting the earnings and quarters of coverage of either spouse equally to the Social Security records of both spouses. The result is that a separate Social Security record is maintained for each spouse and neither is considered the "dependent" of the other. An individual can shift between homemaking and paid employment without the loss of earnings credits. One spouse also is not dependent upon the other spouse's retirement or disability to collect benefits but can collect upon his or her own record because of retirement or disability.[2] The ten-year duration of marriage requirement that exists under current law is also rendered unnecessary because each spouse receives credits on his or her own record based on the couple's combined earnings for the duration of the marriage only, however long or short.

Second, any plan for reform should ensure that in the case of retirement, disability, death or divorce, equal benefits are paid to one- and two-earner couples with the same average lifetime earning credits. This is essential to ensure that wage earners in two-career families receive full credit for their contributions to the system. At the same time, no couple should receive less under any new payment scheme than it receives under current law. An earnings-splitting plan could accomplish these goals by providing that benefits be paid to each spouse based on his or her own Social Security record, and that current beneficiaries be assured of no drop in benefits by some form of "grandparent" clause, which would remain in effect only for a specified transitional period.

One criticism of a 50/50 earnings-splitting scheme such as this one is that couples with the same average lifetime earnings credits as singles would receive a higher replacement rate on their earnings than singles. This occurs because the result of the couple's earnings splitting is to give each spouse a smaller separate earnings record than one earner with the same total earnings credits would have, resulting (under the current progressive benefit rates) in a larger benefit to each spouse. For example, a couple with $12,000 in earnings would receive credits based on $6,000 each, so that their combined benefits would be higher than a single individual with earning credits based on $12,000. This result is justifiable, however, because despite some economics of scale, two cannot live as cheaply as one. Moreover, the disparity in replacement rates would not be as great as the disparity under the current system between single earners and one-earner couples. And in any event, each half of the couple would receive no more than a single individual with the same earning credits. Thus, in the example above, each spouse would receive benefits based on $6,000 equal to the benefits of a single individual with earnings credits based on $6,000.

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[2] Unless otherwise noted, each individual's eligibility for benefits would be based on age, disability or survivor status, as defined under current law.

Another criticism of such earnings-splitting schemes is that the higher earner in a two-earner couple or the one earner in a one-earner couple would receive a lower benefit and earnings replacement rate than he or she does under the current system in which there is a ⅔–⅓ benefits split instead of a 50% split. This criticism, however, overlooks the fact that the current system undervalues the contributions to family income of the lower- or non-wage earning spouse. In order for that spouse's contributions to the household, in the form of work in or outside the home, to be fully recognized for the equal contribution it makes to the earning of the higher- or one-wage earner, some form of earnings splitting is necessary.

A remaining and very real problem under any earnings splitting plan, however, is the amount of benefits that should be paid to couples in which one spouse retires or becomes disabled before the other spouse. A related issue is the problem of the benefit amount after the death of one spouse or after divorce. Under the basic 50/50 earnings splitting scheme above, when both spouses retire or become disabled at the same time, each is entitled to equal benefits based on the record of each. The family income has been "replaced" by Social Security benefits. When one spouse retires or is disabled before the other spouse, however, should the remaining spouse be entitled only to a benefit based on his or her own separate record? An earnings-splitting plan seems to work in some situations in which this occurs, but not others. If the retired or disabled spouse is the lower- or non-wage earner, and the couple receives benefits based on only one record, insofar as the family earnings were made possible through the contributions of the spouse who is now unable to provide those contributions, the benefits received will compensate for the loss of those contributions. For example, suppose a situation in which the husband earns $12,000 and the wife is a homemaker. If both retire[3] and/or become disabled at the same time, the couple will receive benefits based on $12,000 to replace their family earnings. If the wife retires or becomes disabled before the husband becomes eligible for benefits based on his own record, the couple will receive benefits based on $6,000. The husband will probably continue work in paid employment, but the earnings of the family will be diminished because of the loss of the wife's homemaker services; indeed, the husband may have to hire someone to perform those services. The payment of benefits to the wife based on her own $6,000 record, even if the husband continues to earn $12,000, compensates for this loss.

If, however, the retired or disabled spouse is the higher- or sole-wage earner, and the couple receives benefits based on only one record, the results of an earnings-splitting plan are more difficult to accept. Suppose in the above hypothetical example, the husband retires and becomes disabled before the wife becomes entitled to benefits based on her own record. The couple then has to support two individuals with earnings credits of $6,000 each on benefits based on earnings credits of only $6,000, with no supplementation through earnings due to the husband's inability to contribute. Although the wife's homemaker services continue to have value, insofar as their value was measured by the husband's earnings, that value is of small comfort to the family.

Similar problems occur in cases of the death of one spouse before the other, or divorce. Here, however, the results of an earnings-splitting plan are more difficult to evaluate because only one individual rather than a couple must be supported.[4] For the same reason, insofar as inequity may exist it is more difficult to redress without unfairness to other single earners.

For example, suppose that in the above hypothetical in which the husband is the sole wage earner of $12,000, the wife dies before the husband becomes en-

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[3] "Retirement" for a homemaker, as it is now for a wage earner, would be attained when that individual reaches a particular age (so long as the individual also has earnings, if any, below the statutory limitation on earnings). This is based on an assumption that the older homemaker cannot, or does not, continue to provide homemaker services at the level that she or he provided such services earlier in life. To the extent that the retired homemaker continues to provide some homemaker services, her or his eligibility for benefits should not be affected since wage earners of advanced age are permitted to continue to have some earnings and still remain eligible for retirement benefits.

[4] In all the situations described here the fact that one or more of the individuals involved may be responsible for the care or support of minor children is not taken into consideration, although that fact is a very real possibility. Our view is that equity in such situations should be accomplished through adjustments in the benefits for children of retired, disabled, deceased or divorced individuals rather than through adjustments in the benefits of their parents.

titled to any benefits based on his own record. Depending on his age and the age at which one becomes entitled to survivors' benefits (age 60 under current law), he may or may not be entitled to any benefits to replace the lost contributions of his wife's homemaking to his earnings. Similarly, if the husband dies before the wife becomes entitled to benefits on her own record, again depending on her age and the age requirement for survivor's benefits, she may or may not be entitled to replace the lost contributions of her husband to the family's earnings, in this case his wages. The first difficulty in analyzing these situations is that, depending in large part upon the age of the survivor, the results may not be inequitable. Perhaps a 21-year old spouse, whether wage earner or homemaker, should not be entitled to survivors' benefits. On the other hand, a 58-year old spouse may suffer a real economic loss (of wages or homemaker services) that is difficult for an individual personally to redress. Another difficulty is that any solution that provides a single survivor with benefits based on something more than that individual's own Social Security record produces inequity between that individual and other single earners who are also—and may always have been—without either additional earnings or homemaker services.

Divorce presents similar problems, although, here any solution in which the ex-spouse's benefits are based on something more than that individual's own Social Security record is even harder to justify because the partnership relationship on which earnings-splitting is based has been voluntarily terminated (i.e., terminated for reasons other than death). Hardships equivalent to those in the survivor situation could occur, however, particularly when the marriage is terminated at an age at which it is difficult for an individual to replace the lost earnings or homemaker services of the ex-spouse.

The most justifiable solution to the hardships that may be caused by the retirement, disability, or death of one spouse before the other, or by divorce, would seem to be one in which benefits for low- or non-wage earner spouses, in the case of the retirement or disability of the high- or sole-wage earner spouse, are based on some amount between what the couple's combined benefits would be and what the individual spouse's benefit would be. In the case of death or divorce, however, the surviving or ex-spouse's benefit should be based on his or her own record,[5] with perhaps some exceptions made for older survivors and divorcé(e)s.[6] By increasing benefits to couples without wage earners or with only low wage earners,[7] but not surviving spouses or divorced ex-spouses except in some limited situations, most cases of hardship could be redressed while at the same time equity between one- and two-earner couples and between couples and singles still largely be maintained.[8]

Although some form of earnings-splitting system would address many of the issues raised here, it would not address all provisions in the current law that impact adversely on women or are otherwise sex-discriminatory. For example, several explicit gender-based distinctions remain in the Social Security Act which should be eliminated, such as the provision for the payment of benefits to aged divorced wives and aged or disabled surviving divorced wives, but not to husbands in similar circumstances. The Carter Administration proposed legislation to abolish these distinctions, but Congress deferred action on such legislation until further study. The Congress should now insure that the Social Security Act be sex-neutral on its face in all respects.

The Congress should also consider the impact on women of any proposed changes it may suggest in the current law. An important part of any reform effort, for example, must be an examination of current benefit levels, which are

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[5] Current beneficiaries, who in the case of survivors' benefits at least, might receive more under current law, could be protected by some kind of "grandparent" clause on a transitional basis.

[6] The assumption here is that the Social Security system cannot cure all of the economic hardships that are attendant to the loss of a spouse, whether through death or divorce. See also footnote p. 8, supra.

[7] The definition of "high" and "low" wage earner, for purposes of deciding which couples might qualify for higher benefits, would admittedly be a difficult one. Perhaps some sliding scale of benefits could be devised which would correlate to the earnings ratios of such couples.

[8] Remarriage, an issue under current law that was partially addressed by the 1977 amendments, should not be an issue under an earnings-splitting plan. Because each spouse or ex-spouse generally receives benefits based on only his or her own Social Security record, those benefits would not be lost upon remarriage. In those situations in which benefits might be based on something more than the individual's own record, the most that remarriage would result in would be a return to a level of benefits based on the individual's own record.

woefully inadequate. The severe survival problems created by the low level of benefits impact particularly adversely on women who, as stressed earlier, earn only a fraction of the amounts that men earn in their lifetimes, and accordingly comprise a larger percentage of this country's poverty population.

III. CONCLUSION

In short, our testimony today has been an attempt to address only the major issues. We recognize that we have not been able to provide solutions to all of the issues that we have raised, nor cost analyses of the solutions that we have proposed. Further study is certainly necessary, both of the proposal advanced here and of other suggestions for change that would improve the economic status of, and equity between, women and men under current law.

Ms. CAMPBELL. I think that being last today gives me a particular benefit, because I can say, quite clearly, that not only the organizations that I have testified on behalf of, but all of the women's organizations here, I think, are united in their desire for change and in their appreciation that change may occur at different stages. I think we have to remember in this fight that we may be fighting on several battlefronts at once.

First, we have to analyze the studies that have been done, and as I think I said 18 months ago when I testified before you, I am very appreciative of those studies but I think it's time to stop studying and to start focusing on real alternatives, long range as well as short range. I think the Members of Congress and all the organizations represented here have to develop a proposal that we can unite around, and I hope that your proposal, Congresswoman, will be the start of that. I think there's a long-range effort we have to make.

We must also make an intermediate effort with incremental approaches, as suggested by Martha Keys and in the bills that you have introduced. As Ellie Smeal so eloquently said, there are going to be very important short-range issues that are going to take a lot of our time, probably, in the immediate future. We should not allow those to deflect us from the longer range solutions to these problems. But, at the same time we have to fight on those short-range issues, and we have to be sure that every proposal to change social security, whether it's minimum benefits, retirement age, or anything else that they're going to throw at us in the next few months, is analyzed in terms of its impact on women.

Lastly, I would like to say that I think it's important to understand, analyze, and deal with the interrelationships between social security and other benefit systems and pension plans. The AFCC program, the SSI program, and others are all programs that must be coordinated and interrelated. Again, we shouldn't allow changes in one to make up for deficiencies in the other.

So I am happy to be here today and I am happy to submit my testimony. I thank all of you who have come. I think this is a wonderful day, as it is for everyone else.

Ms. OAKAR. Thank you very much, Nancy.

We have about 5 minutes that we can give for questions.

Geraldine, do you have a question?

Ms. FERRARO. No. I believe the testimony has been very, very complete, and I appreciate your participation. Thank you.

Ms. OAKAR. Claudine, any questions?

Mrs. SCHNEIDER. My only comment would be that most of the testimonies are self-evident, and, to me, obvious. I share your comments. The time for studies is behind us, and the time for action is now.

I just might add there is no time like the present. We Congresswomen here are very much interested in all the public participation that all of you might be able to generate, because it is through the grassroots movement that we are going to be able to get the kind of change that we're looking for. Our power is limited, but yours is vast, so let's work on this together. Keep up the good work.

Ms. OAKAR. Thank you, Claudine.

I would like to ask Tom one question, because you have done a tremendous amount of study as part of the President's pension policy on not only social security but other related pension issues.

When you were preparing your papers, and you have one still to be released, did you ever talk about strategy of not having this be just another great study, but something that could be reasonably implemented, or did you think there were some issues that were more doable than others, et cetera?

Dr. WOODRUFF. No; I think—I will agree with the last comment, that the time for action is now. We have certainly spent the last 2 years studying; that was our mandate. I think a lot of things are clear. A lot of problems are clear now.

I do believe that we need to address both social security and some of the other entitlement programs, the minimum benefits under SSI, for instance. Coordinated action will alleviate some problems that we can never address by reforming prospective entitlements.

I am very concerned, both in the executive branch and in Congress, that we don't have many forums like this today. We don't have many opportunities to address crosscutting issues and programs. And I think that's essential.

Ms. OAKAR. Can I ask you at this point, have you been invited, any of you, to appear before the Ways and Means Committee and the appropriate committees on the Senate side to give your views on these issues?

Dr. WOODRUFF. We have been asked to testify later this month at the House Aging Committee, the full committee hearings.

Ms. OAKAR. The full committee. But you see, one of the things that's very important is that this legislation, particularly in social security, but also with other issues, go before legislative committees. It's imperative that we get the appropriate committees, such as the Ways and Means Committee, to have legislative hearings.

I thank all of you for being here. I would only like to say with respect specifically to the social security issue, and there are certainly other issues that we're concerned about, but on this level, one of the things that I think may appear to be negative but we might be able to turn around is the fact that social security is getting so much attention that somehow social security is always the whipping "person," you might say, for whatever they want to slash in the budget and so forth.

I think, however, we could turn that around. If, indeed, people want to start talking about the social security issue, we ought to take a look at it comprehensive and not just scotch tape it in the manner

in which we've done in the past. I think the time is right to correct some of the injustice. The system hasn't evolved properly through the ages, although initially it was a wonderful system and it is one of our finest necessary domestic programs. But, since so many people want to make it the target, let's make it a positive target by dealing with it comprehensively and correcting the injustices that exist within the system that are neither beneficial to women or men. I will close on that note.

I know that the summaries of the bills are no longer available on the table there, but if any of you would like to have them, we would welcome your response to them. You can see a member of my staff if you want a copy of the summaries. We'll be happy to give them to you, because we need your help. We think if the American people desire something, a correction in the system, that those of us who are elected officials must be responsive. So, a lot depends on the lobbying efforts of your organizations and the grassroots of the American people, particularly those of you who are here today. Thank you very much.

We will close the meeting of the Task Force on Social Security and Women. Thank you for coming.

[Whereupon, at 12:20 p.m., the task force was adjourned.]

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TREATMENT OF WOMEN UNDER SOCIAL SECURITY

(Administration's Proposed Cuts in Social Security)

MONDAY, JULY 20, 1981

U.S. HOUSE OF REPRESENTATIVES, TASK FORCE ON SOCIAL SECURITY AND WOMEN, OF THE SUBCOMMITTEE ON RETIREMENT INCOME AND EMPLOYMENT, AND THE SELECT COMMITTEE ON AGING

Cleveland, Ohio.

The Task Force met, pursuant to notice, at 9:30 a.m., at the Cleveland Public Library, 325 Superior Avenue, Cleveland, Ohio, Hon. Mary Rose Oakar (task force chair) presiding.

Members present: Representatives Oakar of Ohio, Eckart of Ohio, and Stokes of Ohio.

OPENING STATEMENT OF CHAIRWOMAN MARY ROSE OAKAR

Ms. OAKAR. Before we begin the formal testimony, I would like to welcome everyone to our congressional hearing before the Select Committee on Aging, and I am delighted, indeed, to have such a wonderful turnout, because we know of your concern, and we think this is what the administration should be seeing: the grassroots, the real people.

I want to acknowledge my very, very distinguished and absolutely marvelous colleague, Congressman Louis Stokes.

Let me make just a few quick announcements. As you know, we are going to have after this a rally, and we are having a marvelous speaker, who is also going to be a witness at this hearing, former Commissioner Robert Ball. We are going to change the location and even make it more convenient because of the rain. We are going to have the rally at the Hollenden House Hotel, right across the street, at the main ballroom.

Please, if you go out to tell your friends what is happening, please tell them not to be discouraged by the rain, because we want the people to see how concerned you are.

Just a couple other announcements about the setup here. We have not only Commissioner Ball testifying, but we do have a number of handicapped and senior citizens who will testify on everyone's behalf. Because of the fact that we must leave here at noon, we are going to limit the testimony, and anybody who wants to submit something for the record in writing, as I know a lot of you would like to testify and won't be able to, we will be happy to have your testimony for the record.

Carol Miller on our staff is here. There are members of our staff and others, who have helped coordinate this, and we want your testimony. So please feel free to present it to us.

The other thing that I would like to mention is that anyone who would like to talk about a specific social security case, right here and now, we are very fortunate to have Director Bill Robinson with Ken Bohland and Mary Alice Lillie from his staff. Bill Robinson, Director of the downtown social security office, Ken Bohland and Mary Alice Lillie, would you please stand up? Thank you very much for being here.

What I would like to suggest, though, is that if any of you would like to meet with them, that maybe we do it after the hearing outside in the back vestibule.

So with that, those few announcements, let me now formally begin the hearing of the task force on social security for the Select Committee on Aging, and I would like to take this opportunity now to call upon first of all, my colleague, Congressman Louis Stokes.

Congressman Stokes?

STATEMENT OF REPRESENTATIVE LOUIS STOKES

Mr. STOKES. Thank you very much, Congresswoman Mary Rose Oaker, and good morning, ladies and gentlemen.

I am delighted to be here this morning and have this opportunity to participate in these very important hearings regarding social security and its impact upon the elderly in our community. I wanted to take a moment to commend Congresswoman Mary Rose Oakar for having brought her Subcommittee on Aging into our town. This is a committee, official congressional committee, that she is chairing this morning in this community. I don't sit on her subcommittee, but she has invited me here this morning to participate in these hearings, and I think she is to be commended for caring enough about the citizens in our community to bring her congressional committee down here.

So I really don't have much to say by way of opening remarks. I am just delighted to be here, and I would have some comments to make as we get into the hearing.

Thank you, very, very much.

Ms. OAKAR. Thank you, Congressman Stokes.

While he doesn't sit on the Aging Committee, he does sit on Appropriations, which is where the money is, and he is always there to block cuts when we need him, so we are really lucky to have him.

Mr. STOKES. Somewhere out here, too, I do have with me this morning for any persons who reside in my congressional district who want to discuss a specific social security problem—I have from my Washington office a gentleman who has been loaned to my congressional office in Washington from the Social Security Administration, who is one of their experts in these kinds of matters. Herb Nichols is out here somewhere.

Herb, where are you? There he is, all the way in the back. So feel free to ask him any questions you want to about social security involving your own personal cases.

Ms. OAKAR. Thank you, Congressman.

Let me just make a very quick statement. Last Friday in Cleveland and also in various newsletters that I have accumulated, the current Commissioner of Social Security amazingly has said, Commissioner John Svahn who works for S/S Administration—absolutely amazingly has said that there are no cuts that would affect older Americans and handicapped Americans in the budget. And I want to tell you unequivocally, that is absolutely a lie. That—is absolutely not true, and I'm amazed that somebody who serves as the Commissioner would not know enough about the budget and what his President is proposing not to know that there are indeed two cuts.

One is the cut in the minimum benefit, which would reduce the income of those people between the ages of 70 and 90 who make $122 a month—two-thirds of these people really have no other means. There would be a tremendous, dramatic cut of 40 percent in their benefits. It would be immediate once the President signs the bill.

And the other cuts affect the student benefits for those displaced homemakers who are widows, who depend on that to send their children to college and for whom their husbands paid into the system for many years. So there are two cuts right now.

There are six others they are proposing. So we think this is the tip of the iceberg. So I want to make that clear, because I think—for those of you who attended another seminar Friday—I think he told you an unfortunate lie.

The other thing is, I want to make clear for my part as chair of this task force that, in my judgment, there is no immediate crisis. I think that has been a very hyped kind of thing, that the system is not bankrupt. It's never missed a check since 1935 and never will.

There is a short-term problem in one area, but there are surpluses in two other categories, and we could provide for interfund borrowing very simply and solve the short-term difficulty.

The other point that I want to make is that, in my judgment, the social security trust fund ought to be taken out of the unified budget. In 1969, to cloak, I think some of the problems and expenditures of other areas of the budget, it was placed in part of the unified budget. Because of that problem, very often when the trust fund is a real viable source of money, it is true that in order to pay for other areas like increased defense and increased foreign aid expenditures and so on, they wash out the money that they think they are going to be saving by cutting your benefits that you paid into—that you paid into.

So we have a bill that we hope you will support that would change those items and, we think, make it viable.

But I think the most important thing is to hear from the experts, to hear from Commissioner Ball and to hear from you, yourselves.

So with that, I would like to invite our first witness, who is Commissioner Robert Ball. Commissioner, if you would just come up.

Let me tell you about the Commissioner. You are going to hear more from the Commissioner later at our rally. He is going to be our featured speaker, so we are going to ask our witnesses to limit our panels to 15 minutes and our individual witnesses to 10 minutes.

But let me tell you, Commissioner Ball is one of the foremost authorities on social security. He has written a marvelous book that

I use as kind of my Bible, because it explains so many things about the system. "Social Security Today and Tomorrow" is the name of the book.

He was the Commissioner of Social Security under Presidents Kennedy, Johnson, and Nixon; served for more than 20 years in various positions in the Social Security Administration; and now he is the chairman of the Advisory Council for SOS, save our security. So you couldn't possibly have more of an authority than Commissioner Ball.

Commissioner, we want to welcome you to Cleveland, and we want to thank you for giving up your time to be here.

STATEMENT OF ROBERT M. BALL, FORMER COMMISSIONER, SOCIAL SECURITY ADMINISTRATION

Mr. BALL. Thank you, Madam Chairman and Congressman Stokes.

I'd like to begin by saying how fortunate we are to have these two Congress persons in Washington fighting to save social security. These hearings that Congresswoman Mary Rose Oakar has held, both in Washington and here, are a very important part of this struggle. And make no mistake about it, David Stockman and the Office of Management and Budget, which he heads, have started a major assault on the social security system.

This is not just a one-time thing, in my judgment, with one set of proposals, sweeping and radical as they are. But let's focus first on what has already been proposed.

The administration is asking the Congress of the United States to turn its back on previous promises, to turn its back on a compact with contributing workers, on a compact with beneficiaries and to cut total protection under social security on into the future permanently by almost one-fourth for the 115 million people contributing to the program.

They are asking the Congress of the United States to break this compact and to cut disability protection by one-third for those now contributing. And for those who are forced into early retirement and have to apply for benefits at age 62, the cuts will be, if their proposals pass, more than 40 percent.

These cuts hurt everyone, but they fall particularly harshly on low-income people, on women, on blacks and other minority groups, and on marginal workers who have had a hard time holding onto jobs throughout their lifetimes.

As Mary Rose Oakar said, the administration spokesmen are going around the country and on television saying, "Well, you who are getting benefits, don't worry. We're just going to cut them for everybody else in the future. But don't you worry, because this isn't going to hurt the people who are already receiving them."

That's wrong. It's a lie.

There are 3 million people now receiving the minimum social security benefit. Almost 1½ million of them will get lower social security benefits, averaging from $50 to $65 a month lower, if the President's proposals go through.

Young people between 18 and 22 who are the survivors and dependents of insured workers and who are attending school will have

their benefits reduced. Those now receiving them will have their benefits reduced 25 percent the first year, 50 percent the next year, 75 percent the next year, and then they will disappear.

What I say to you is that if they can cut the minimum benefit, if they can cut the students' benefits for people who have, under the law at the time that they presented their claims given all their proofs, had a formal legal adjudication that they were entitled to these benefits, received an award letter signed by a Commissioner of Social Security saying this is what they were going to get—if they can take these benefits away, why can't they cut or take away other people's benefits?

We are faced here with a principle. If only 10 people were affected, I would feel strongly. But we are talking about a large number affected by a combination of the minimum and the student benefit proposals. Well over 2 million will have their moneys reduced. And I say that we have to stop this benefit-cutting at the very beginning.

Over the last generation, we have built in this country block by block a great social security program. Of course, it can be improved and should be, but just as it is, it has created a revolution in the lives of older people, disabled people, widows, and orphans.

There are some people in this room, just as I, who can remember the 1930's when there was no social security system. Do we want to go back to those days?

The AUDIENCE. No.

Mr. BALL. Are we going to sit down and watch this great program dismantled piece by piece?

The AUDIENCE. No.

Mr. BALL. Well, we can stop it if people like you across the country go back to your own organizations, your friends and neighbors, and tell the Congress of the United States that this program is a kingpin in the economic security of this country and that it should not be touched. Then it won't be.

Social security is by far our most effective antiproverty program. It keeps 14 to 15 million people above the level of poverty—that rock-bottom definition that the Federal Government puts out that nobody could live decently on.

But equally important, social security is the base on which just about everyone builds his or her, own plans for security in old age, against the risk of becoming totally disabled, or for one's family in the case of death. Every private pension plan in the United States is built on the idea that the pensioner will recieve a social security benefit. Our entire arrangement of economic support—private pensions, savings, social security, supplemental security income—can't work unless social security, which is the base of the whole thing, is dependable, something that people can count on, that they know they have a right to. That's what's being threatened.

This protection is now kept up-to-date automatically with wages prior to the time one retires or becomes disabled or dies and then, as you all know, kept up-to-date with the cost of living, once one starts to receive the benefit.

That's another point that these proposals hit. Everyone now getting benefits would under these proposals have the next cost of living postponed 3 months, and after that, the average would be

related to an annual average instead of a 3 month's average. Now that might not seem like much, but actually it's a cut in permanent protectlon equivalent to roughly about $2 billion a year for the people now receiving benefits.

This system, as you know, is not only designed to be inflation proof and tax free but has in it a variety of protections that one can't get in any other way. The survivor's insurance alone, which frequently is overlooked, is equal in face value to just about all the private life insurance in the whole country. The face value of the two in each case is somewhat above $3 trillion.

Now, why is the administration proposing these things? I believe that they have in mind more than social security. Unfortunately, the way the accounting is now set up, if you cut benefits and create a surplus of income over outgo, it reduces the deficit in the general budget. And under the administration's own economic assumptions, if these cuts were passed, social security would make a contribution in the next 5 years of well over $100 million toware balancing the general budget.

I also believe that ideologically this administration does not want a Federal program providing the level of security that the present social security system provides. They have made no bones about the fact that they want to cut back and shrink the role of the Federal Government, and these permanent, long-range cuts—as I said, reducing total protection by a fourth—help that long-range design and shrink the role of the Federal Government generally in social programs.

The cuts are unnecessary and they are wrong.

As Congresswoman Oakar said in her opening remarks, interfund borrowing alone under the Reagan economic assumptions carries the system through the current short-term difficulty, which is solely in the Old Age Insurance Fund. Then there is a period of time, about 25 or 30 years, when social security financing is in relatively good shape because the relationship of the number of older people to those at work is relatively favorable.

Think of it this way. The baby boom generation that may become a problem to social security financing in the next century, in the next 25 or 30 years, is paying in, and that balances any increase in the number of older people.

If there is a social security financing problem, it isn't next fall. That can be handled by interfund borrowing, and it isn't 10 or 15 years from now. The administration's own figures show social security expenditures shrink as a percentage of gross national product. If there is a problem, it's 30 to 50 years down the road, and that can be planned for. We don't have to deal with that in some kind of a crisis atmosphere, with David Stockman testifying before the Ways and Means Committee to the effect that unless you adopt these massive, permanent cuts, there would be the greatest bankruptcy in history on November 3, 1982—coincidentally a congressional election time. That is nonsense.

We draw the line here at the beginning of the fight. Cutting social security benefits is unnecessary and wrong. This country can pay for what has been promised. We can preserve the system if all of the people and people like you resolve to do so.

The message is: Don't cut social security benefits at all. We, the American people, support the program and support the means to pay for it.

Organize, write, telephone, get the story across, and keep doing it.

One of our main problems is, we appear to have won a victory and people think, well, that's fine; that's over. We got a 96-to-nothing vote in the Senate, rejecting the proposals of the President, but it's carefully worded. They just rejected the form the proposals were made in. They will be up in a different form later.

The Reagan people are not going to give up easily on this, and we won't give up at all. This is your protection growing out of your earnings and contributions and those of members of your family. You have a right to it. Don't let anyone take it away.

Thank you very much.

Ms. OAKAR. I would like to thank you for your presentation. Let me yield to my colleague for questions.

Mr. STOKES. First, Commissioner, let me express my commendation to you for your very eloquent and articulate way and for the candid way in which you have related the whole social security question to people who really need to know what the facts and what the real truth is. And you have done that in a very forthright manner, and for that you are certainly to be commended.

If I have a question, I think it would be on this aspect of it, and I think this is what people have to understand. You have touched upon in your remarks by saying to us that the problem, as you see it in your capacity, being a former Commissioner of the entire social security program and so obviously you are an expert in this area, the newspapers carry banner headlines, as a result of Reagan's proposals, in which they say, "social security fund broke." All the people here have seen that headline, banner headline, in our newspapers, and, of course, you have said the problem is 30 to 50 years away; is that correct?

Mr. BALL. Yes, sir.

Mr. STOKES. Right. In terms of those persons who are going to be affected 30 to 50 years away, obviously from what you said, correct planning can take care of that problem down the line and that there is absolutely no reason for any current problem or any current cuts; is that correct?

Mr. BALL. Congressman, let me be absolutely clear on this. There is a technical problem in one fund, Old Age and Survivor's Insurance, which grows out of the recent bad performance of the economy.

Social security benefits go up automatically with prices, and therefore with the high inflation we've had, benefits have been greater than had been anticipated. The income to the system is tied to payrolls and wages have not been keeping up with prices, and there has been high unemployment. So payrolls have been less than expected.

But to call that bankruptcy when you have excessive money in the disability insurance fund and in a hospital insurance fund seems to me like a person who has three bank accounts and one of them is drawn down very low, and he's got plenty of money in the other two, and he says, "Well I'm bankrupt." That's nonsense.

All you need—and it does take an act of Congress—is to allow that the Old Age and Survivor's Insurance Fund borrow at in-

terest from the other two funds, which does not affect their long-range security, because you are borrowing at interest, that would see the OASI fund through now, and then, as I said earlier, that fund is in good shape in the 1990's, because in that period there is relatively little increase in the number of older people in the 1990's, and the big baby boom generation is paying in.

In the 1930's, birth rates were low. Those were the Great Depression years, and there was a low birth rate. That means in the 1990's there are relatively few older people becoming of retirement age. What increase there is, is offset by the fact that you have this baby generation paying into social security during that period. There is a short-term technical situation, easily manageable, in my opinion, that is being hyped up in order to try to scare the country and the Congress into making long-term permanent changes in this program, and they are unjustified.

Mr. STOKES. Thank you, Commissioner, and thank you, Madam Chairman.

Ms. OAKAR. Thank you, Congressman Stokes.

Let me ask the Commissioner one question. Mr. Ball, you mentioned that you saw over a 5-year period a $100 billion increase in the defense budget. Did I quote you properly?

Mr. BALL. No, Congresswoman. What I meant to say was that under the Reagan economic assumptions, if they were to be successful in passing their social security cuts, there would be a $100 billion excess in the social security funds which could be used to balance the general budget because of what I think is a bad way of accounting.

I agree with you that we should get social security out of the unified budget. Then you wouldn't have this temptation to cut social security in order to give a better appearance to the budget generally.

Ms. OAKAR. I guess I was reading into some assumption that I've made. Our task force has done a study on this issue, and we we have found that the increase over a 3-year period, that they want to increase dramatically the defense area, is about $100 billion.

So, you know, they have to get that money somewhere in order to balance the budget. So bookkeeping would allow them, if they make those cuts for $100 billion, to wash it out. I mean, that's the whole point.

So I am glad you made that point about what these cuts mean. I'm sure you are familiar with their trustees' report, and the part of the report that was not given to the media verifies what you have said. And that is, over a 25-year period, the social security trust fund in its entirety has a 17-percent surplus. That's according to the trustees' report, who, as you know, work for the Administration.

The other thing that I think, just for the sake of clarity, I might ask you is, would you just name the three categories of the trust fund and mention the two categories that have surpluses? I think that would really put it in focus for everybody present.

Mr. BALL. Right. The social security contributions that people make, which are now 6.65 percent of earnings, are divided. It's all a deduction from your earnings, but some of it goes into one individual trust fund that's called old age and survivor's insurance, another portion goes into a different trust fund that's called disability insurance. Another portion goes into a trust fund which is called hos-

pital insurance. That's the part of medicare that is paid for out of accumulated social security contributions. There is another part, supplementary medical insurance, which I set to one side because it's not really involved in this argument. Seventy percent of that program is paid for now out of general revenues, and the other 30 percent is from a deduction from your social security benefits.

But of these three funds—OASI, DI, and hospital insurance—disability insurance has an excess of income over outgo and hospital insurance has an excess of income over outgo. OASI should be authorized to borrow from those two.

Let me shift now from the Reagan economic assumptions to much more pessimistic assumptions that the Congressional Budget Office uses as an alternative. Maybe the Reagan economic assumptions are too optimistic.

So here we have an alternative set of much more pessimistic economic accumptions. Under these assumptions, under present law, without changing anything, interfund borrowing alone would carry the combined three funds that I am talking about well beyond fiscal year 1985—no problem.

Now after fiscal year 1985, under these pessimistic economic assumptions, and with the kinds of cuts that seem to be going through the Congress in the reconciliation process, there would be enough money with interfund borrowing to 1990 when the situation improves for OASDI. This idea of a crisis next fall seems to me to have been whipped up really uuconscionably—what Daniel Patrick Moynihan has called "political terrorism" in order to get people to be willing to accept the kind of cuts for nonsocial security reasons that they wouldn't do if they were not made to feel that they had a gun at their head.

Ms. OAKAR. Thank you, Commissioner.

As you know, I have introduced legislation to take the social security system out of the unified budget and to provide for interfund borrowing. And we hope SOS will support it, and maybe we can add it as an amendment right away and get it over with.

Mr. BALL. I can say right now, we do support it. And one other thing that the group ought to know is that the Democrats in the Senate are going to try to add to the tax bill in the next couple of days an amendment which would provide for interfund borrowing. That is going to be an amendment to the tax bill, and there will probably be a very close vote.

You want to make sure that the U.S. Senators, your U.S. Senators, vote for that kind of amendment to the tax bill.

Ms. OAKAR. Thank you very much.

You will again be hearing Commissioner Ball speak at length at our rally at noon at the Hollenden House right across the street. We changed, for those of you who came in late—we changed the location because of the rain.

Thank you very much, Commissioner.

We tried to show by our witnesses that this was not just a city of Cleveland problem, this was not a Shaker Heights problem, this was not a Cuyahoga County problem, this is a national problem, and that's why our range of witnesses come from four counties in our area and

come from the city and come from the suburbs, so that it is an issue that is universal and doesn't pit one group against another.

So let me get to our first panel of witnesses, if they would just come up. We have Rose Schneider, who is with the Jewish Community Center; Helen S. Brown, who is the founder of the Helen S. Brown Senior Center of East Cleveland; we have Harry Ostrow of Shaker Heights, who is a disability early retiree; and we have Earl Lautenschleger from the Senior Citizens Association of Lorain County.

I want to thank everybody for coming. And if you gentlemen and ladies would please step forward, we would be real happy to have you come forward. We are again going to limit the panel to about 15 minutes, and then we will ask questions.

Helen, since you are first at the mike, suppose we begin with you. Helen from East Cleveland—I think everybody knows Helen Brown.

STATEMENT OF HELEN S. BROWN, DIRECTOR, HELEN S. BROWN SENIOR CENTER, EAST CLEVELAND, OHIO

Ms. BROWN. I am Helen S. Brown, director of the Helen S. Brown Senior Center in East Cleveland.

Ms. OAKAR. Let me just say this. Whatever you want to put in for our record will be recorded, and if you could summarize your remarks, then we can get to the questions, because we will be hearing from you later also.

Thank you, Helen.

Ms. BROWN. I'm Helen Brown, director of the Helen S. Brown Senior Center in East Cleveland, Ohio. I am also a senior citizen over the age of 60.

We daily face the problems of elderly people who have been productive and gainfully employed during their working years but whose advanced years have brought poverty along with deterioration in their health. We, the staff and I, must do whatever is possible to make the final years of many people pleasant ones. Therefore, we cannot and will not accept the drastic changes in the social security system that are currently being considered.

Too many of our participants receive social security payments for the many years of hard work that they have done in amounts which not one person in the legislature in Washington could survive on for one week. The elderly survive on as little as $122 per month, a total of $1,460 per year. Is this humane?

In the richest and most bountiful country in the world, we demand that elderly people survive on $1,460 per year. Now tell me that this amount is to be eliminated? Tell me that an elderly daughter who has worked at low wages all her life, now taking care of an even older parent, is going to be told, "No retirement income, meager as it is, for you; sell your parent's home, get rid of all your assets, so that the Federal Government can put you on SSI, supplemental security income"; destroy generations of families pulling together to buy and keep a little home so that you will always have a part of that American dream of owning your own home—to be born there, to live there with your family, and perhaps to die there—only to be told by the Federal Government, "Sell it and everything else you and your family worked

so hard for, through depressions, wars, and personal problems." Sell it, so the Federal Government can give you less money and destroy that American dream.

The American dream is becoming a nightmare of broken promises, of fear to have corrective surgery, for perhaps you will not receive what you planned on for all these years.

Any argument that SSI will provide for the truly needy elderly ignores the fact that SSI provides very little and takes away what little pride elderly are left with.

Does this administration understand how deep in poverty one must be to be eligible for SSI? I think not.

The majority of elderly people receiving SSI are elderly women who, while they have worked for years at extremely low wages, may then have stayed home to raise children. The elimination of this benefit strikes at the heart of motherhood.

Who takes care of mother? How many children raise a family of their own, become elderly themselves, and are forced to care for an even older parent? When are people allowed some time for freedom for themselves and a time to grow old gracefully and peacefully?

The burden of caring for an older, aging parent placed upon the young elderly is perhaps one of the most devastating life situations facing many people in this country today. The elimination of minimum benefits would place many elderly people in disgrace.

Why do not the United States of America take proper care of its elderly? Are we totally blind to the needs of elderly people that we would demand a balanced budget over a human life? Are we so concerned about the beginning of life that we will encourage the end of countless lives by forcing the elderly to wither and die from neglect?

There is no sane reason for turning our backs on the people of this country who spent their entire adult lives working and building, also defending, the United States of America, who voted for and supported social security as a means to spend their last years in some sort of dignity. More broken promises.

I strongly urge the Congress of the United States to focus its attention on the needs of the elderly who do vote and demand that Congress stop playing with the elderly's lives.

Ms. OAKAR. Thank you.

Our next witness is Harry Ostrow, who wants to talk about disability in the retirement area. Thank you, Harry, for being here.

STATEMENT OF HARRY OSTROW, DISABLED PRIVATE CITIZEN

Mr. OSTROW. I wrote very, very little, because somebody told me it's 5 minutes.

Ms. OAKAR. That's fine, Harry.

Mr. OSTROW. Let me just say one thing. Was it Mr. Ball or Dr. Ball, the gentleman who spoke so eloquently before?

Ms. OAKAR. Probably both.

Mr. OSTROW. Well, he was talking about people, young people who want to go to school. Now there is a young girl who works at a nursing home, and she was telling me how discouraged she was. She went up to the bank—I won't mention the name of the bank—and the bank

says, "You're out of luck. President Reagan says you can't get any more loans through us." And she was tearing her hair because she's got kids, and she's got a scholarship.

During the past few weeks, I was at a nursing home, and they invited me to stay for 5 days, and a nursing home can be livable, although I realize it's not what I want to go to. I was talking to one of the big shots there, and he said $15 a day if you have to go to a nursing home, and medicare doesn't do nearly as much as it should beyond that. Maybe you can explain that a little bit better than I can.

I put my reading glasses on; I hope I don't lose them. The last time I did lose a pair. I will try reading it. I hope it sounds like talking.

My name is Harry Ostrow, and I'm almost 65, and I'm on disability. I know that all of us want social security to continue in the black, but we're agreed that there are better ways of doing this than hurting us who are retired because of age or disability.

The main rationale for social security is to replace lost income, and most retirees find it hard to get along with what they get from social security; I know I do. Any reduction of benefits will make a bad situation even worse.

Disability benefits—and, incidentally, as I said, I'm on disability, and I know what it's all about—disability benefits given to people who haven't as yet reached the official retirement age of at least 62 are in the same category. If you are sick enough, working can kill, making it harder to get disability benefits. They're saying, "Die or work," rather "Keep on working until you die." That has happened. My son tells me that friends of his insist on working even though they have heart trouble. They soon die.

Incidentally, I'll never forget a friend of mine who insisted on working with heart trouble. He worked, then he had to take off, then he worked again. And a little bit after—I think he was 62—a little bit after he stopped working, a couple months later, somebody said, "Harry, do you know what happened? One of our best friends died."

I go to a luncheon in Cleveland for senior adults and meet many older people who rely on that luncheon for a necessary meal. They live in the cheapest of lodgings and go to County Hospital for emergency care. They do this because their social security benefits are too low. I shudder when I think and realize that their actual payments may be lower because of the 3-month holdup in the cost-of-living payments. And don't kid yourself, next year we actually might be losing out on those 3 months if Ms. Oakar doesn't have enough clout. And I sure hope you do.

Ms. OAKAR. If I don't Congressman Stokes does.

Mr. OSTROW. You have the money. May I talk to you later?

Go to any bank or savings and loan, anyplace where checks can be cashed, and you will find social security checks being cashed a half-hour after they are received. Why? There is only one answer. Older people are badly in need of cash.

I dramatized this quite some time ago in a letter to the Cleveland Plain Dealer, and a friend of mine phoned me saying, "That's no

joke." I really didn't think it was a joke. I was talking about myself but made off it was a friend. I wrote of a fellow who has a toothache at the end of the month and painfully waits for his social security check to arrive so he can get a dentist to relieve his suffering. That's me almost.

Now really, aren't our priorities askew? Must we hurt older and disabled people who have problems, who must have a minimum kind of security through social security? Is our great country, which seems to have money enough for many other projects, projects which I don't especially care for—is our great country saying that it's especially necessary to hurt our moms and dads, the sick and the weak, those who need our help so much, those who are only asking for justice?

Thank you. Thank you, Ms. Oakar.

Ms. OAKAR. Our next witness is going to be Earl Lautenschleger. Earl, we are very happy to have you here all the way from Lorain County, so thank you very much for coming.

STATEMENT OF EARL LAUTENSCHLEGER, MEMBER, CONSUMER AFFAIRS COMMITTEE, SENIOR CITIZENS ASSOCIATION OF LORAIN COUNTY, OHIO

Mr. LAUTENSCHLEGER. Madam Chairman, special guests, members of the Advisory Committee, SOS, Social Security, I am Earl Lautenschleger, 340 Harwood Street, Elyria, Ohio, 44035. That's in Lorain County, county No. 47, in Ohio and innovative for many things.

I am a member of the Consumer Affairs Committee of the Senior Citizens Association of Lorraine County, Inc. Our Lorain County commissioners have designated this group as their source of information on the needs and needed legislation of seniors in Lorain County.

A survey of the needs of our senior citizens—that is, older Americans—has maintenance of income as a prime need. Many of our retired persons have social security as their major or only operating income. It is with kindness and sympathy that you hear their appeal to maintain the present level of income while Congress reduced the inflationary factors of their daily purchases for even minimal living.

Be reminded of the day in high school civics and government classes when you learned that December 23, 1913, was the date of the loss of control of interest rates by the U.S. Congress (House) to the Federal Reserve Bank, a private banking system. High interest rates are involved in every consumer purchase, and the consumer is the ultimate taxpayer and the source of the social security payment checks.

May your health be of the best in order that you may think through and solve this social need of the many whose only budget income is a monthly social security payment.

Thank you.

Ms. OAKAR. Thank you very much.

Our next witness is Rose Schneider from the Jewish Community Center.

STATEMENT OF ROSE SCHNEIDER ON BEHALF OF THE JEWISH COMMUNITY CENTER

Ms. SCHNEIDER. My name is Rose Schneider. I represent the 3,800 senior adults who are served by the Jewish Community Center.

Our security and our way of life is under attack. The benefits to which we are entitled are being challenged.

Those of us on minimum payments of $122 a month are being threatened with loss of even this small amount, because they say we cannot afford such luxury. Our cost-of-living increase, which is not really a benefit but an adjustment to help us to try to keep up with inflation, is termed too expensive. Too expensive for whom? Who cannot afford to pay subsistence benefits? The United States, the richest country in the world? The United States, which has hundreds of billions for MX systems, for bombers, for battleships, cannot afford decent living standards for its senior citizens?

Let us be clear about a few things. First, the social security system is not bankrupt. It has enough money to carry it into the 21st century. Money in the medicare and disability funds can be temporarily transferred into the old age pension fund.

Many other solutions which would maintain social security at its present levels have been suggested but are being ignored.

Second, the younger workers are not complaining about the so-called burdens of supporting the system. Every poll taken shows 66 percent and more opposed to reductions in social security, even if taxes have to be raised to maintain it. But taxes do not have to be raised.

If you extend social security taxes to the full payroll instead of limiting it to the first $29,000, any threat of a financial problem disappears. The workers of today want their parents to continue to be self-supporting and not a burden on their children. They look forward to a healthy social security system for themselves and the future.

This talk about the young workers is an effort to set young against old, the new version of the well-known divide-and-rule concept. From its inception over 45 years ago until now, all changes in social security have been to improve it. Once any cuts are allowed, no phase of the system will be secure from attack.

We are receiving social security not as a gift from the Federal Government, but as a right which we have earned through decades of work. We have a compact with our Government which guarantees us definite sums in return for our contributions to the social security funds.

We state emphatically that we stand opposed to any cuts in social security benefits. If social security financing is not in the critical stage, then why this sudden clamor for cuts?

The attack on social security is at one with the attack on all social services for our poor, our unemployed, our sick, our disadvantaged. It goes hand in hand with transferring billions of dollars for humanitarian uses to the military.

We want our country to be secure, but the security of our country cannot be judged by how many bombs we have. The true security of the United States is measured by the health, happiness, and security of its people.

Let us have no illusions. The cuts will not balance the budget, will not stop inflation, will not do away with waste caused by fraud and corruption. Congress is merely proposing to take $40 million from human services and give it to the Pentagon.

To cut food stamps and milk for children, to deny decent living to our seniors, or to spend billions on the MX missile system is a travesty on the American way of life. We cannot let this happen. After all, we are the generation who were young in the 1930's, who won social security, unemployment insurance, the right to form unions, who fought in a war to help defeat fascism. We will fight again, if need be. We insist that there be no cuts in social security.

Ms. OAKAR. Really excellent, all four. Thank you very much. I think we will proceed, as we have so many other witnesses, but your statements all are excellent.

Let me acknowledge in the audience from the State house of representatives Troy Lee James, who is the chairman of the aging committee for our State house.

Our next witnesses are our beloved handicapped witnesses that we would like to hear from and would be very happy to have them accomodated in the audience. So let me call on them.

Dave Williams from Garfield Heights, on the board of CRT, will talk about the impact on persons with chronic illnesses. I know Dave does not mind my saying that he has multiple sclerosis and is one of the real outspoken people for the rights of the handicapped people.

So, Dave, if you would proceed, you will be first.

STATEMENT OF DAVE WILLIAMS, MEMBER OF THE BOARD, CRT

Mr. WILLIAMS. Thank you.

Congresswoman Oakar, Congressman Stokes, most importantly fellow Americans, earlier this year the American public was exposed to a lot of rhetoric about the safety net that was to be kept secret come budget time. The fact that a proceeding such as this congressional hearing has to be held attests to the fact that that safety net lost its sanctity.

Almost daily we read about ambiguous proposals for changes in cuts in our social programs. Most important of these proposals are the changes slated for the social security system. The consistently conflicting reports about the financial status of the social security are not convincing and only breed contempt among the Americans on social security and smack of deception to those people paying into the system.

Social security was established as a trust, a trust on which Americans could rely in old age or in event of disability. Many people will come to hearings like this to expose how the proposed changes in the social security will affect them and offer Congress a chance to to hear the people.

I sincerely hope that all ears of Congress, not just those of Mary Rose Oakar and Congressman Stokes, are tuned to the voice of the people, because this time the people are speaking in one voice.

I am not an expert on all aspects of social security, but I do have more than a passing familiarity with social security disability insurance, commonly called SSDI, and that's what I'll address today.

Some of the proposed changes had to do with SSDI. The most significant of these, in my opinion, have to do with the change in the requirement for the time worked prior to becoming eligible for social security disability insurance and the wages in which social security disability awards would be based.

The specifics of these two changes are unclear and, in true economics fashion, rather ambiguous. As far as I can determine, the proposed new standard for eligibility for social security disability insurance would be 7½ years of full-time work experience. If you have not worked 7½ years of full-time work experience, you will be ineligible for disability benefits.

Remember, we've heard from rather reliable sources here today that the social security disability insurance fund is operating at a surplus, where actually that fund is generating a profit by reinvesting. There is no danger of that one going under, but they're still going to change the standards and make fewer people eligible for disability insurance benefits.

To demonstrate how this proposed change to a 7½ year full work experience would work a hardship on young Americans who, through no fault of their own, become disabled. I'd like you to bear with me, and I will review with you a personal history.

I'm a certified nuclear medicine technologist and radiation health physicist, and I consult with radiation health physicists. I worked part-time in high school and college, and upon finishing college, I entered as 2-year training period. During that training period, I was considered a full-time employee, but it was a very minimal salary. On completion of the 2-year training period, I entered into the field as a staff technologist. After being in the field 2 years, I moved up the ladder to a supervisory position, and in 1976 I got promoted to department head status.

At that time, I also had the opportunity to begin doing a little bit of private consulting on my own. This is 1976.

In June 1978, multiple sclerosis got the best of me, and I became permanently and totally disabled. The total time of full-time of work experience that I have on which my benefits are based is 6½ years. So as you can see, under the proposed changes, I would be ineligible for SSDI.

What options do I have? Public welfare, supplemental security income of what—$122 a month or something--rely on my family which is not wealthy?

There are some problems here. During the 6 years I was growing as a person and my family and my career was growing, I got married, and I have two young sons. Just before I became disabled, we bought a home, so that put me in a little different classification. I needed SSDI, but under the proposed programs, I wouldn't have been eligible for it.

The other problem area in the proposed change is the earning period on which SSDI awards would be based. Currently SSDI is based on your earnings during the most recent career change. However, the proposed changes will call for your SSDI award to be based on an average income over a 5-year period.

Again, I will go back to myself. I was in training for 5 years before I became disabled, and from training I had to go through two career steps and changed my salary level dramatically. To me, that benefit

change, just figuring it out in dollars, was $1,300 a year—a little over $100 a month. It may not sound like much to the Government, but when you are trying to raise two young boys, that's a heck of a lot of money.

Before endorsing any changes as to how the SSDI award is to be granted, Congress should answer the question of whether or not a young American should be penalized for becoming disabled before his or her career is on a firm foundation.

The final change that bothers me in the social security system is the benefits change. Having two young sons and being on disability, my sons receive the minimum benefit.

Fixed income is something that's familiar to everybody in this room. I have two young boys that I hope to see go through college. My sons would not be able to go through college without that minimum benefit. I mean, what are they going to live on? I'm not going to be able to put them through.

As I understand it, the three—and it's been reinforced in my understanding today—there are three separate and distinct trust accounts within the social security system, those being retirement, the medical fund or hospital fund, and the disability fund. The only account that's supposedly in the least bit of financial distress—and I still don't see a whole lot of financial distress there—is the retirement fund.

Why, then, is it even necessary to include any proposals for changes in SSDI or medicare at this time? If these funds have money and are keeping pace, why should they even be touched?

The only reason they are being touched is to provide dollars to be recycled into the general fund of the country to be used for other areas.

Social security is grossly mismanaged. In recent years, we've seen social security grow into a bureaucracy that's almost uncontrollable. People going through benefits apply sometimes at three different cities to handle one particular case. It's impossible to go to an office in Cleveland, and discuss your case in total. You go to Cleveland, they say, "Well, the records, you have to call this number. It's a WATS number in Cincinnati, Cincinnati gives you a number for Washington; Washington refers you back to Cleveland. You still don't get all the information. And still we have two offices, three offices, that are functioning and not getting any information.

If social security is, indeed, in trouble, why don't we review the management of social security and see if we can't cutback on expenditures there?

Finally, I just want to remind everybody here, we are reminded that 6.35 percent of our income goes into the social security system. That is matched by our employers. Our employers have a contribution into that, so there is a little more than 6.35 percent.

That sums up all I have to say on SSDI. I think the proposed changes are absolutely ridiculous and unfounded. There is no reason to be included.

With your indulgence, Mary Rose, I came with a busload of senior citizens from Garfield Heights, and on the bus we were talking, and they just asked if I could let you know what some of their concerns were.

Our seniors are very concerned about this. There is a rumor about a tax being levied on social security benefits. This is absolutely ludicrous. The changes in the eligibility age for social security benefits—this needs a lot of investigation, and I'm not sure that it's necessary. But changes in medicare that they've heard rumors about, they need these explained.

We're dealing with a rumor mill right now, the Reagan rumor mill.

Ms. OAKAR. If I could just interrupt you, Dave, there have been proposals of raising the age from 65 to 68, 62 to 65, and they are, you know—unfortunately, they are more than rumors. They are not fact, but they are trying to do these things. So they should be concerned, and that is why we are having the hearing. And obviously, I guess you are saying you object strongly, and the seniors are united.

Mr. WILLIAMS. I think they can speak for themselves.

Ms. OAKAR. I think so, too.

Mr. WILLIAMS. The last problem had to do with the change of the cost of living effective date and the area of which this based on. We all know this can affect us a lot, because the cost of living benefit increase that people who have been on social security receive really isn't keeping pace with the cost of living.

Ms. OAKAR. Thank you very much, Dave.

I am going to change our schedule just a little bit because I want to show what a cross-section of people we have who are affected by this. It is just not one group, and it is everybody united, and therefore I want to call on Sister Mary Denis Maher, who is of the Sisters of Charity of St. Augustine, who will represent the sisters, not only nationally but in this community.

Do you know that the nuns and priests who take a vow of poverty are also affected by the cuts in social security? So let's hear from Sister now, because I know Sister has a meeting also.

Sister, we are very happy to have you here with us today, and if you could give us your remarks, Sister—we will put your entire statement in the record—and summarize, we will be really delighted to have you.

Thank you for coming.

STATEMENT OF SISTER MARY DENIS MAHER ON BEHALF OF THE ORDER OF THE SISTERS OF CHARITY OF ST. AUGUSTINE

Sister MARY DENIS MAHER. Thank you, Mary Rose. I appreciate this opportunity, and also Congressman Stokes.

I know, as Mary Rose said, why do the sisters who have a vow of poverty have any interest in social security? However, I was always taught that one should pray as if everything depended on God and work as if everything depended on yourself. So I am here representing not only the 2,500 religious women in this Diocese of Cleveland, but I also represent part of the 123,000 religious women in the United States.

The lives of many of you certainly in this room have been touched by the long tradition of religious women here in Cleveland. Even if you did not go to a Catholic school, I am sure you passed through a Catholic hospital, a social service agency in this community, and religious women have been in this area since 1885, and I'm sure many

of you go to Charity Hospital on a regular basis. And so I represent a community that has been here since 1851 dedicated to health, education, and social security.

Now, what exactly are religious women interested in? We're interested in supporting those things that Mary Rose supports, the rights of the elderly, the disenfranchised in many areas, and certainly of women.

In 1972, the Social Security Administration said that religious men and women would enter the social security system. Prior to that, we were not eligible in any way. When we were told in 1972 that we, as a group, could enter the system and receive some benefits, there were a number of things that had to be done.

Any community that decided to do this had to do a lot of study, because once we entered as a group, we could never leave the system. So for us who have a large number of elderly sisters, I come from a community of over 200 people of which, at the moment, the median age is 68. We have 112 sisters who receive social security benefits, and these are the minimum benefits in most cases. So under the proposed cuts, a good 70 or 75 of those sisters would be cut out.

When we decided to go in, we had to study very carefully what our financial resources are, which are rather limited, and we had to look ahead. When I came in here today someone said, oh, you must be part of the program because you look young. And I said well, I look young, but I am representing the community and many religious people in Cleveland who are trying to care for the elderly in their own communities. If we cannot care for them, they then do fall on the system in some way to be cared for by someone else.

So when we went into the system, we had done a great deal of study. We believed what the social security system said to us about the minimum benefits that we would receive. That would be all that we could do for our senior sisters, and we could not pull out of the system once we went into it. The way they make the benefits to us, the payment is based not on our salaries because many of us earn nothing, and some who earn some, it's mostly all pooled. It was based on what is called the fair market value, not the cost of living, but the cost for our board, our food, a few things like that. It is a very low sum and that is why we have, in most cases, the minimum benefit.

What would happen here in Cleveland, 2,500 religious women, at the moment there are close to 20 percent who are retired. These are the largest communities in the city of Cleveland, and in the Akron area and some other northeastern Ohio, many of these people have been teaching communities who receive very little money, who are counting on these benefits because they went into the program feeling that we would receive those.

On a national level, I received figures this morning from the Washington office of the Leadership Conference of Religious Women. There are 14,500 religious women who receive the minimum benefits. Practically all of those are women; there are some men. That must be a small number, and certainly for many of you it seems insignificant, and yet we're here to support the fact that the minimum benefits are not cut because the very fact that it is a small number, in many cases it will wipe out the religious community that is trying to support these people.

Half of many communities are senior sisters who have given their lives to many across the United States here in the areas of health, education and welfare, who helped to build the schools and the hospitals that so many of us have enjoyed the services of. So we would at least like to have the people consider the fact, as you bring back Mary Rose to Washington, that religious communities were excluded from social security prior to 1972. We have not had the time to build up the quarters, to get ourselves beyond any minimum rate. Perhaps if they could extend this or continue it we will be able to do that.

And certainly Congress, I presume, in 1972, was sincere when they gave all of us who fit in the various categories the opportunity to participate. If we are excluded, as we are under the proposal, what are our sources and our resources? Certainly we will pray that God will take care of all of us in this room who are so effected, yet nonetheless, this was promised to us and we think we have a right to work and to fight for these cuts not being made.

Thank you very much.

Ms. OAKAR. Some of us do have a piece of legislation. We will try to see that it is supported. Thank you very much, Sister, for representing all of the groups of sisters across the country.

Our next witness is Sandy Wilpula, who represents Service for Independent Living. She will talk about disability eligibility; and Mary Verdi is with her, who came to our office in Washington during during the meeting on employment of the handicapped. Sandy, if you would proceed.

STATEMENT OF SANDRA WILPULA, VOCATIONAL REHABILITATION/INDEPENDENT LIVING COORDINATOR, SERVICE FOR INDEPENDENT LIVING, ACCOMPANIED BY MARY VERDI

Ms. WILPULA. My name is Sandra Wilpula, and I must be confined to a wheelchair due to polio, which I contracted during my early childhood. Because of the severity of my disability, I have a live-in attendant who shares my apartment. At present, as Ms. Oakar stated, I work with Services for Independent Living as the vocational rehabilitation independent living coordinator. The focus of my work is helping severely disabled persons locate the services and persons necessary that will help them to achieve their goal of independent living.

I am very grateful for the opportunity to be on this panel today concerning the proposed changes in both the social security disability insurance and the supplemental security income programs. What I wish to say today not only reflects my own personal concerns, but also the concerns of thousands of severely disabled people in this country, this State, and across our Nation.

We are all aware of the statistical data that is utilized when attempting to weigh carefully the pros and cons of an issue which has such magnitudinal impact on a very significant portion of our population: the severely disabled and elderly. I would, therefore, like to address the humanistic impact which the proposed changes in the Social Security Act will have upon this specific population.

The Social Security Administration has made several giant steps forward since the 1970's with regard to the severely disabled. Through a variety of amendments, the long, tedious road to full employment by the severely disabled person was facilitated. The opportunity to return to the community once again as a valuable contributing member had now become less of a gamble and more of a reality. There's such incentives as increased substantial gainful activity, impairment related work expenses, eliminating the second Medicare waiting period, extended medicare coverage and extended trial work period. These all combined to reduce the fear of failure and its devastating financial consequences. There is, however, a grave concern now regarding the proposed changes being considered for both SSDI and SSI and their effects on the severely disabled and elderly.

If it were not for the SSI and Vocational Rehabilitation Act, I could not participate today in this panel discussion. Those moneys provided a rehabilitation program covering education, adaptive equipment, and eventually led to full employment for myself. Thousands of severely and disabled people will not have the opportunities such as those, should the proposed changes in both SSDI and SSI programs occur. It is my hope that Ms. Oakar can convey this message to Washington before it is much too late for our severly disabled and our elderly.

Thank you.

Ms. OAKAR. Thank you very much. Congressman Stokes and I, while you were talking, Sandy, were just commenting on how cruel these cuts are and how much anxiety it has caused to so many people, and we are really happy that you could share with us your concerns on behalf of so many people.

Our next witnesses want to talk about the problems of early retirees, those who take the benefit which is, by the way reduced by 25 percent if you retire at 62. Max Schoenfeld from UAW Local 45 and Leo Fenster from UAW Local 45, and also if Mildred Alexander, who is with the Golden Age Center, who is 60 years old, was forced to early retirement, would come up also with this panel.

Would you gentlement like to proceed and identify yourselves, and thank you for being here.

STATEMENTS OF MAX SCHOENFELD, UNITED AUTO WORKERS LOCAL 45; LEO FENSTER, UNITED AUTO WORKERS LOCAL 46; AND MILDRED ALEXANDER, GOLDEN AGE CENTER

Mr. SCHOENFELD. My name is Max Schoenfeld. I retired in October 1976 after working 30 years at the Fisher Body, Coit Road Plant in Cleveland. I am the secretary of the Retired Workers Chapter of UAW Local 45. I want to address my remarks to the proposal to penalize those collecting social security at age 62 by reducing the percentage of full benefits received from the present 80 percent to 55 percent.

I am very much in favor of making it possible for workers to retire early, but not to force them to do so. Early retirement is desirable, first, to open jobs for younger people as the oldsters leave; and second, to allow those who put in 30 years of demanding factory work the opportunity to enjoy some life before they are no longer able to do

so. Our union contract and many others like it, provide that at age 62 retirees receive a pension of so many dollars for each year of service, and assumes that this amount, plus the 80 percent of full social security benefit, will produce a livable income.

Like myself, a good number of our workers find this attractive and have retired at age 62 or even earlier. Many who are still working are looking forward to the day they can retire under this arrangement. Reducing the benefit to 55 percent means very real loss of income. Take, for example, someone whose full benefit would be $500 a month. The present 80 percent means $400; the proposed 55 percent means $275, a loss of $125 a month. This loss would extend for the lifetime of the recipient and would definitely discourage early retirement.

Let's look for a minute at the present 80 percent of full benefit at age 62. It's a gamble. Either take the 80 percent at 62, or wait to take 100 percent at age 65. Early retirement means less money each month, but also provides 36 more months of benefits.

Which supplies more money in the long run? If you live past 77, you eventually receive less in benefits by taking the 80 percent. If you die before 77, you will have received more in benefits than if you had waited until age 65 to file for social security. As I said, it is a gamble but it is not too bad a gamble. According to the Statistical Abstract of the United States, 1980, published by the Census Bureau with their latest figures being for 1978, once you are 65, your life expectancy for males is 79 and for females it is 83. However, if the 55 percent goes into effect, besides the real loss of income for each month of your life, you are getting a very bad deal in terms of life expectancy. Instead of age 77 being the break-even point, it would then be age 68.6. That means if you live beyond this age, and the odds are greatly in favor of that happening, you lose heavily in the amount of total benefits received. It is simply not fair to consider a 55-percent reduction; it is not supported by the vital statistics.

By making and keeping early retirement possible, we do much for the communities we live in. Retired persons form a large segment of those volunteers who help in a broad spectrum of activities. People who have acquired a lifetime of experience and skills are often willing to contribute these to worthy causes and organizations. Delaying retirement to age 65, or even later, as also proposed, obviously reduced the years of voluntary service available.

When we who are retired, and those who are approaching retirement, paid our FICA taxes on every paycheck, we in effect made a contract with the Government. We pay the tax and we have every right to expect certain benefits in return. Now, in the middle of the ball game, it is proposed to change the rules. The threat of there no longer being a viable option to retire at 62, or even of having to wait until 68 or 74 for benefits, has to be most disturbing to those looking forward to those leisure years. In fact, all these proposals to change the retirement system may very well increase the current problems of the social security plan.

People who were considering whether or not to retire will now rush for their pensions before changes can be made. This sudden influx of new recipients will only increase the amounts social security must pay out.

In summation, early retirement is beneficial to those who desire it, provides jobs for younger people, and provides a corps of volunteers who help their communities. We should not hamper this choice by restrictive changes in the social security system.

I want to add this comment. The proposed cut at age 62 and the proposed postponement of normal retirement age do not affect me, but we must stick together. Do not let the Reagan administration divide the elderly from those still working and looking forward to retirement. Their concerns must be our concerns. If they lose, we will be next.

Ms. OAKAR. Thank you very much, Max. I want to tell you how grateful I am, especially for your last comment, because I think one of the most insidious things that is happening is the pitting of young people, claiming that they won't have that to look forward to, against our older and our handicapped and those who take the other benefits. So thank you very much.

Mr. FENSTER. Madam Chair, Congressman Stokes, I am also from local No. 45 of the United Auto Workers and active in the retirement chapter. I want to add a little something to what Max said at the end of his statement, that detroying the present system of early retirement would undoubtedly result in greater unemployment since the unemployed of today can look forward, at least partially, to filling the jobs when the 62-year-olds retire. And we in the labor movement have spent an awful lot of effort as one method of attacking the unemployment problem, to secure an early retirement program from our corporations. And we've succeeded. Now this will be virtually destroyed, if the age limit is raised.

Now, I attended a meeting at which the present director of the social security fund, appointed, of course, by President Reagan, spoke and he was asked this question from the floor. And his answer was that within a couple of years there's going to be so much employment in the United States that we're going to have to import labor from foreign lands. That was exactly his statement, and the audience made the same response that you did, except some of them booed.

Now, this man is supposed to be the head, and he's supposed to be the one who is proposing these downgrading changes. And I'm going, "What's he smoking?"

Now, Commissioner Bell said very correctly that social security is a promise to the American people, but it's even more than that. It's a debt obligation, because social security is not simply something that has been promised us by law. We paid for it. And the people, the men and women in our factories and our offices who are working today, they are paying for it also. And when we try to drive a wedge between those of us who are retired and those of us who are still working, I say all of us, those who are retired and those who are working, have to resist that tactic because that's the divide and rule tactic that one of the previous speakers spoke about. And they are trying to get those in the shops, those who are still working, to say stop, we don't want to pay these kinds of fees into the social security system.

But I think also those who are in the shops have to realize this. We who are now retired can suffer some by lowering of those stand-

ards, but they are the ones who will really suffer if the standards are lowered.

Now, at the conference, John Svahn, the present Social Security Director, spoke and told us that the social security system is going broke. Now, the funny part of it is, if I knew that it was going broke and if I were to report to my constituency, I would put out some figures. I would say this much is coming in, this much is going out, and then at least you could begin to evaluate the system. But they never do that, and that makes me a little suspicious, a suspicion which I think has been confirmed by some of the statements here today.

But if more funds are needed, and let's assume that they are needed, then there are ways to get that money that will not hurt the people who are now retired or the people who are now working. There are proposals that you turn your mind to creating proposals. There are proposals that you want to solve the situation and not do what the Reagan administration is trying to do to create a double bookkeeping system by which they can fool the people and say they are balancing a budget, balancing a budget at the expense of the aged and those about to become aged.

I would like to throw out two proposals here, at least for consideration. Now, at the present time, when you are paying into the system, if you are working you pay up until $29,700. After that, you cease paying and the company for which you work ceases paying. I propose that this continue, that at $29,700 everybody stops paying. But once anyone has earned income—I'm not talking about savings or anything of this sort—earned income, income from working, hits the level of $50,000—in other words, there is that moratorium from $29,000 to $50,000—when he hits $50,000 be resumes paying at the same 6.65 or 13.30 for the company, and the individual, and they continue to pay for whatever they earn above the $50,000.

I say that won't cause a real hardship to anyone. Do you know what it will raise? Strangely, now, in doing this, I had to project a number of figures, because I could get the social security figures only through the years 1978. But projecting those figures, beginning with 1965, I projected and I'm not going to be held to an exact number of pennies, or something like that, but I projected that this would raise in the year 1982, if it were adopted immediately, $5 billion, $5 billion. And from there on in, it would continue to raise greater and greater sums of money.

The second proposal, at the present time we take our windfall profits tax and what we do with the money is actually put it back so that it can act as capital for the oil companies. That's the present usage of the windfall profits tax. It also comes from them, from their profits. but it goes back to insuring that they'll have greater and greater profits in the future.

I would, therefore, propose that in a year where there is a shortage for that particular calendar year in the social security fund, that the money from the windfall profits tax, instead of going back for the oil companies, be placed into the social security fund. With these two methods, we could really overcome and more of our thinking could be had on this subject and more ideas. With these two methods, we could really overcome the problem and the windfall profits tax

wouldn't be used to make greater profits for the oil companies, but they will be used to take care of the American people.

Ms. OAKAR. Thank you, Mr. Fenster, and thank your fine union that we all support.

I would like to take the opportunity to also introduce one of my very esteemed colleagues, who certainly is a champion for the rights of the people, Congressman Dennis Eckart. We will be hearing from him at the rally in a few minutes.

We are running a little bit short of time, so again, we are going to ask the next witnesses to please summarize. Our next witnesses are Bessie Major and Margaret Gorie from Lakewood. I know that Margaret has a statement. Rather than read it, Margaret, I am going to ask you to submit it for the record. It is by Toni Podojil, who is in Washington. As you know, there are senior citizens organizing in Washington, so we are covering all of our bases here. So we will submit her testimony for the record, and rather have you ladies say your own comments.

[The prepared statement referred to follows:

PREPARED STATEMENT OF TONI PODOJIL

DEAR MARY ROSE, I regret I cannot testify in person. I am in Washington attending the National Council of Senior Citizens Legislative Conference, and doing some protesting on Capitol Hill.

As one who works with the elderly needy in the street I am deeply concerned about what is going to happen to those seniors who are in their late 70's, 80's and 90's who are receiving the minimum Social Security.

Let me give you an illustration: Mrs. V., living on the near West Side is age 91. When she was married she lived on a farm, had five children. When the children grew up they moved to various cities and good paying jobs. None wanted to farm. When Mrs. V. was 60 years old her husband died and she struggled on the farm alone for two years. At the age of 62 she sold the farm, put the little money in the bank and was living from it. Ten years later at the age of 72 she was down to $1,500 and not entitled to any Social Security benefit so she went out to do housework for 10 years for a family in Shaker Heights and earned enough credits to qualify for the minimum Social Security benefits. At the age of 82 she then went to live three months with each one of her children because she could not afford to live independently with such a low income. Here was a senior who loved to cook, bake and can, do her own housework, being shuffled off three months to Pittsburgh, three months to Akron, three months to Youngstown and then back to Cleveland. She became very unhappy, bitter and disillusioned. Her children were grandparents and great grandparents with a lot of little ones running around and she was only what she felt, an unwanted guest in her childrens homes. One day she disappeared.

A few months after contacting many friends and family members one of her son-in-laws decided to check the farm she once owned. He found her there living in a little summer house that she rented from the new owner, with no water in the house, a coal stove, and an outhouse. He brought her back to Cleveland and bought an old house North of Detroit, repaired it and put Mrs. V. in it. She is happy living by herself. But, her son-in-law is retired, age 73, living on a fixed income and making payments on this house, paying the utilities is creating a hardship on him supporting two households. I took Mrs. V. to get SSI. Because her son-in-law provided the shelter they only allowed her an additional $18.00 in SSI and $12.00 in food stamps.

If her minimum SS Benefits are cut, here is a family who will be hurting, who will not be able to let this senior live an independent life. The President is a millionaire. He wants people like Mrs. V. and her family to bite the bullet. If he wants the poor like Mrs. V. and her family bite the bullet and him being a millionaire having vacation homes, flying to California, set the first example first by becoming a $1.00 a year man. And last but not least getting the same medical treatment that people like Mrs. V. and others need can afford to get.

Thank you.

Ms. OAKAR. Bessie, if you would proceed, please.

STATEMENT OF BESSIE MAJOR, SENIOR CITIZEN, LAKEWOOD, OHIO

Ms. MAJOR. Congresswoman Oakar and other dignitaries, I am Bessie Major, a senior citizen from Lakewood, Ohio.

Social security is not a gift. It is money that people of the United States work for all of their lives. Back in 1937, the President and the Government of the United States entered into a contract with the people. This money was put into a trust fund so all U.S. citizens who have put money into it would receive it when they reach the age of retirement. They would have money to live on for the rest of their lives.

It was and is testimony to the best among the achievements that a government and its society may claim. It helped stabilize the family unit for every person. It has lessened the anxiety over possible events that could destroy lives, loss of income due to retirement, death of a family breadwinner, or total and permanent disability.

However, in 1969, President Nixon proposed to the Congress that social security should be taken out of the trust fund and transferred to the general fund so it could be used in solving the budget funds. It passed and was transferred to the general fund.

Now President Reagan wants to cut all programs in the general fund. The saddest thing about President Reagan's proposal is the total mindlessness of the attempt. He did not take time to think of to do research. He was so interested in cutting the taxes, he seemed to have forgotten about us poor seniors, the biggest voting majority who put him in office. Now he plans to make us suffer more.

Here, a while back, the President promised us a safety net: social security and medicare. Now this safety net is under water and the old people are being thrown to the sharks. We older Americans are not sitting and nodding while the rug is being pulled out from under us; we're wide awake and watching and holding on with all we have to what we have got.

Thank you.

Ms. OAKAR. Margaret, would you like to say a few words, also?

Ms. GORIE. Yes, I would.

STATEMENT OF MARGARET GORIE, LEGISLATIVE DELEGATE, 1981 WHITE HOUSE CONFERENCE ON AGING

Ms. GORIE. I am Margaret Gorie and I am a legislative delegate to the White House Conference in November. I want you all to know that if there is anything you want taken to the White House, any ideas or suggestions, I welcome them. I am not a statistician or an economist; I am just an ordinary, average senior citizen, a retired schoolteacher, mother, and grandmother of 16 with no professional qualifications. However, in the past 2 or 3 years, I've had the privilege of being an active participant in senior and community affairs.

What I would like to report here are some of the questions, concerns, and statements that I have been hearing for the past 6 or 7 months from hundreds of seniors, young people well off, middle income and poor, black, white and other minorities, the handicapped, the mentally retarded, the needy, Catholic, Protestant, Jewish, all races and all

creeds, those involved in health planning and services, social workers, senior workers, staff members, volunteers, and the beneficiaries of the many good and needed human services and programs that have been successfully established in the past 20 or 65 years.

From the people have come these and many other questions and opinions. One, most thinking people realize part, at least, of the economic problem facing our Nation is due to the Federal funding of all of these good and needed human service programs on credit with money that the Government didn't have, thus adding to the ever-increasing and impossible national debt. However, the programs benefiting people directly are not the only cause. What about the waste, mismanagement, and lack of prior organization of a sizable portion of funds allotted to the military? And now, Mr. President, you want to increase and give them even more. But what assurance is there that these funds will be used to provide the primary, which is the protection of our country and people?

Furthermore, thousands of dollars are spent on grants for studies and experiments that are of no real direct benefit to people; for example, a study of the sex life of fish, the activities and so forth of certain insects or animals, the correction of information in thousands of leaflets and bulletins available in Pueblo, Colo., for people, but how many are actually used or, for that matter, are really of any use? A hundred instances of such waste as the palatial air-conditioned dog-house that the Government erected for its dogs. We could go on and on with instances of waste in spending of our tax money and funding of programs that do not benefit people or provide for the basic guarantees in our Constitution.

You made promises, Mr. President, to get our country out or this economic mess, balance the budget, decrease unemployment, and in foreign policy to make our Nation again what it has always been, the industrial leader in the world and the respected champion of democracy and human rights. We expected you to do these things. That's why we voted for you. We assumed your budget cutting would be directed first to the myriad of waste, the unnecessary bureaus, the redtape, the many forms to be filled out, duplication of offices and agencies that are not only costly but are actually slowing and impeding progress.

We expected you to sift through all the grants of just a few thousand or a million spent here and there that are not vitally needed and do not really benefit people. We are shocked that you chose to begin your budget cutting with cuts in all the programs that we have worked so hard to establish, that were and are so needed and beneficial to the people.

Finally, social security. Social security belongs to the people. You promised a safety net. Overall it provides for the elderly and the needy. Social security is our money. I don't have much of it, but what I have is mine and must not be tampered with.

We realize it is in trouble due to inflation and the ever-increasing percentage of citizens over 65 and the resulting change in the ratio of those receiving benefits to workers paying into the fund. You keep assuring us that no changes will affect us who are currently receiving social security. If so, we thank you for ourselves, but we love our children and our grandchildren.

Our parents fought long and hard to get social security, social reform programs and the Older Americans Act, and we will fight just as hard to keep these intact for our children. We regret deeply all the scare tactics, whether due to the media or politicians, that is undermining the confidence of our young people in social security. We are convinced the social security is and must be kept a trust fund entirely separate from the general fund, earning interest, and no borrowing of it allowed. It may be in trouble and there may be some good business management changes needed, such as the cost of living increase to the nearest penny instead of the nearest dime. That is a sacrifice I can live with and I am willing to make it. And it would create millions of dollars for the fund. There should be a complete screening, especially in the disability payments and other payments, to cut waste and fraud.

To close, we are disappointed in your tax program which gives crumbs to the poor, dollars to the rich, and will be financed by the middle-income families.

I believe in positive thinking and the power of prayer. I feel deeply fortunate to be living in these United States and in the State of Ohio, Cuyahoga County, and the community of Lakewood where our State, county, and local officials are very human needs and services minded. Block grants, I think, would stand a pretty fair chance in our State. But what about the other States where the needs of the people, the poor and minorities, have never been a priority?

So here we join our voices and our prayers and insist that the people programs must come first and our social security must not be tampered with in any of its basics. And we are positively convinced that social security is not and never needs to be going bankrupt. If there is a present problem, it can be easily solved through the use of the funds from the other two social security trusts.

Ms. OAKAR. Margaret, I am going to have to——

Ms. GORIE. There is no long-term problem. It can go from 35 to 50 years, and we, the people, must insist that our social security is not in trouble.

Ms. OAKAR. Thank you, Margaret. Thank you very much, Margaret, and thank you, Bessie. And you know, Margaret was put on at the last minute, but boy, was she prepared.

Let's go on. We only have about 55 minutes before we have to go across the street. That is why I want to limit the testimony, because we have another whole program planned. Let me ask Frank Samide, Gilda Gualtier, and Helen Skowronski from Maple Heights, please, to come forward, and then we have several more witnesses. We are going to ask you to please just stay with us here. We have the program starting at about 12:30, so we have time. I just want you to know that. But we must be out of this building by 12. That's the only problem we are under.

One of the things I would like to mention is that we have had representatives from all four congressional districts testify to show that it is not just one area versus another that has this problem. We are going to ask you all to summarize your remarks and we want to thank my distinguished constituents from Maple Heights for being here.

Frank, would you like to start, please?

STATEMENTS OF FRANK SAMIDE, GILDA GUALTIER, AND STANLEY SKOWRONSKI

Mr. SAMIDE. Frank Samide, Maple Heights. For years I have been told that wages are driving up prices. Now that the raises and wages have slowed down, why are the prices still going up faster than wages? As all these prices are driving up my cost of living, the cost of living clause under the social security plan should remain tied to the price rise index. The excess profits that are being made and that tax should help pay for the cost of living raises in the social security pension plan.

Thank you.

Ms. OAKAR. Thank you very much. Helen is going to yield to her husband, Stanley Skowronski.

Mr. SKOWRONSKI. Stanley Skowronski from Maple Heights senior citizens programs. I feel that we have paid our FICA taxes since day one. We all feel our dues have been paid and look forward to early retirement. We older Americans do not just decide to retire in a few weeks or even months. We plan at least 5 years ahead of time. It takes that long to plan for your expenses and income and for your retirement, whether it is early retirement or at age 65. I feel that we have earned our social security benefits and are receiving what is rightfully ours.

At the closing, I would say: save our security.

Thank you.

Ms. GUALTIER. I have submitted my report to Mary Rose Oakar. Thank you.

[The prepared statement of Gilda Gualtier follows:]

PREPARED STATEMENT OF GILDA GUALTIER

I am a widow 68 years old and I depend on my Social Security for my livelyhood. I do not have any other source of income and the prepared cuts would hurt me very much.

With inflationary prices the way they are rising, I really don't know how I would be able to pay all my bills.

I also have medical problems which Medicare does not cover 100% and paying the balance on my medical expenses is also a hardship.

I worked for thirty years and I thought that when I retired, that I would be able to live out the remaining years in dignity.

In order to continue to keep up with inflation, I have to take money out of my savings.

I have applied for the Section 8 Program, but was rejected because I was a few dollars over the specified amount.

At the rate that I have been taking money out of my savings it (the money) will be depleted in a very short time and I am very concerned how I will be able to live if my Social Security will be cut.

Ms. OAKAR. Thank you very much, Gilda. Our next witnesses, if they would just come forward, they are our last witnesses, Mary Vadas of the Elyria Senior Citizens, one of our fine people who heads up that very great program in Elyria; and also Wilfred Danserau. If Wilfred is here, we would like Wilfred to come up. And from the International Ladies Garment Workers Union, Mary Cauchera, if Mary would come forward also.

Mary, you may proceed while we are waiting for the others, and thanks for coming all the way from Elyria, although you live in our county, we know.

STATEMENTS OF MARY VADAS AND MARY CAUCHERA

Ms. VADAS. Madam Chair and Congresswoman Oakar, Congressman Stokes, and Congressman Eckart, ladies and gentlemen, I would like to express appreciation to the concerns of people shown in this hearing. My name is Mary Vadas, executive director of the Senior Citizens Association of Lorain County. However, I am here as an individual witness on my own behalf and a constituent of Congressman Mottl.

I would like to speak against the proposed cuts in student benefits, which I feel seriously penalizes a single parent, primarily women, who are striving to provide a needed college education for their child or children. I am a single parent with a 17-year-old son who anticipates starting college in 1982. His father died several years ago at an early age, before he reached either his peak earning capacity or the potential of his career. We have always prized education and have sacrificed to make this possible.

My son is an honor student, active in student, church, and other public interest groups. He shows potential for leadership and for making this a better society. While my salary as a professional person is probably more than most single-women parents, I feel that trying to meet a mortgage payment, food, transportation, and incidental medical and dental expenses does not provide enough money to offset the cost of a college education.

It is the practice to have a working mother who uses her salary for education and extras. I do not have that option. I feel that maintaining a home and keeping it in repair also requires two salaries. I do not have that option.

My son currently works at two jobs and mows lawns for eight elderly neighbors. He cannot generate the kind of money needed for college. Therefore, at a time in our economic condition where prior technology is needed and well educated persons, it seems very inconsistent that we are cutting back on education. The loss of student benefits, which could support a child in college, coupled with reductions in student loans, makes college for the poor and middle income person quite uncertain. And it is only children who have lost the parent or primary breadwinner who will be receiving benefits.

My son must hope for a scholarship, cannot attend the college of his choice, since my income cannot absorb the loss of benefits and the cost of tuition. And if he postpones schooling, the costs will be yet higher for his education. Therefore, I would urge the Congress to look seriously at this kind of reduction which penalizes the single parent most seriously and erodes all our future leadership. As a voter, I urge the Congresspersons to spend my money for the things that sustain life and to simply stop spending money on multiple weapons and weaponry which destroy life and civilization.

Thank you.

Ms. OAKAR. Valuable testimony.

Mary Cauchera is representing the International Ladies Garment Workers Union. I see Barbara Janis on the spot, the great leader of that union also. Mary, would you like to proceed?

Ms. CAUCHERA. Ladies and gentlemen, and Congresswoman Mary Rose Oakar and Congressman Louis Stokes, I represent the

International Ladies Garment Workers Union and I'm very happy to say that if it wouldn't be for them, that they helped me out with my social security, I won't make it. I've been working for over 40 years and I remember the times when I was working for $6.50 for a week and times were very, very bad. I raised three children during the Depression and I didn't have nothing for my children.

So when Roosevelt started this program about the social security, we were all so happy that in our senior years we would have something to look forward to. Now they want to take it away from us. Please, I urge everbody to fight for it and see that we don't lose it. That goes for everybody in this country of ours.

Ms. OAKAR. Thank you very much.

I am going to ask our Congressmen, and I want to thank you two ladies because you have put another dimension, Mary's view about your work in the past and Mary Vadas who talked about the mothers. Now there are 38,000 mothers who are going to lose their benefits for their students, for their children who are students, in this State alone if that budget goes through. Let me call upon my colleagues for a closing statement, and then we will have just a couple of announcements about the rally across the street.

Congressman Eckart, would you like to make a statement at this time for the record?

Mr. ECKART. I, first of all, would like to applaud Chairwoman Mary Rose Oakar for taking the initiative to bring this hearing to Cleveland. Although Washington is only 350 or 360 miles away from here, sometimes for our constituents it seems like an eternity. And for all of us it is important to have the benefit of your thoughts and your wisdom as we are getting ready to vote on a resolution on social security, I can assure you that we are going to remind each and every one of our colleagues in Washington, D.C., of the strong sentiment and support that we enjoy on behalf of saving the social security system.

I also want to thank you for coming out and taking the time to be with us, but only remember this is the first half. We have to let the rest of the public and the city of Cleveland know that we are here and we are strong. So please join us later this afternoon.

Thank you very much.

Mr. STOKES. I can be very brief. I look forward to making some comments to you at the rally that will be held across the street at at the Hollendon Hotel. But I do want to say to all of you who have come here this morning that you have, indeed, made a real contribution to the fight in which the three of us are engaged in the U.S. Congress. When we stand on the floor of Congress and speak out for you and give your voice in opposition to these type of cuts, it is important for us to know that back here in this community you are standing behind what we are saying in the U.S. Congress, and that is why your presence here this morning has been so very important.

Thank you for coming.

Ms. OAKAR. Thank you very much, Congressman Stokes and Congressman Eckart. I think it is an indication of my colleagues who care that they are here.

Also, I want to just briefly thank everyone for being at the Congressional hearing and I want to put in a very, very strong note of

thanks for all of you coming out on a rainy day. I want to also thank the people who are responsible for coordinating this, including my own staff and all of the senior center directors and the area agency on aging, and all of she various individuals who come together to work on a project like this. It is very, very difficult to get people here from all over our northeast Ohio area, not just Cleveland proper, but northeast Ohio, different counties, including our own Cuyohoga I represent, and I want to thank all the people responsible.

[Whereupon, at 12 p.m., the hearing was adjourned].

APPENDIX

APPENDIX 1

NEW BEGINNINGS

WASHINGTON, D.C.

Hon. MARY ROSE OAKAR,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSWOMAN OAKAR: The enclosed testimony was prepared at the suggestion of a member of the Metropolitan Washington Gray Panthers who was helping to plan the hearings. For the sake of including those few items not included in the testimony of others, I am submitting it for the printed record.

I was pleased to see many of the recommendations made in the course of testimony in your Task Force Hearings on Social Security and Women were included in the Bills which you have introduced to reform the inequities for women in the present Social Security system. It was good also to hear the agreement of all present that we have had enough of study and the time for action is at hand.

The organizations in which I'm active—WEAL and the National Forum on Older Women, together in a coalition Task Force on Advocacy and the Gray Panther Task Force on Older Women—will be watching the progress of your Bills and working to see that women's interests don't lose out in the focus of the 97th Congress.

With thanks for your continuing supportiveness.

Sincerely yours,

SARA DEANE.

Enclosure.

TESTIMONY ON "SOCIAL SECURITY AND THE ECONOMIC NEEDS OF OLDER WOMEN," WOMEN'S RIGHTS DAY, FEBRUARY 4, 1981, BY SARA DEANE, MEMBER OF GRAY PANTHERS NATIONAL TASK FORCE ON OLDER WOMEN

Claiming no technical experience on Social Security, I appreciate the opportunity again to testify from the personal experience of inability to prepare for income security in our later years, and the need for related change in the Social Security system.

The relationship is clear in the fact that 72 percent of the elderly poor are unmarried women—single, divorced or widowed. The 60 percent of unmarried women who receive Social Security benefits have only that source of income. While recognizing that the Social Security system never was meant to provide sole support in old age that, in fact, is what it does for the majority of elderly, unmarried women—who are, in turn the majority of the elderly. Just one more grim statistic before we look at recommended change: it is estimated that 25 percent of all women who are currently employed full-time will end their lives in poverty.

There is common agreement that there is need for change in a system which was based on the breadwinner/homemaker family relationship prevailing fifty years ago, and to adapt to demographic change putting an insupportable burden on the working population of an increasing ratio of older persons who are living longer. The insurance aspects which have been added to the Social Security system—Medicare, disability and dependents' support—should be supported by general funds to ease that burden.

Demography dictates another change in recognition of a population generally living longer and in better health. With mandatory retirement at 65 no longer lawful, a later retirement age can be mandated for Social Security benefits. Such change should be carefully phased to honor the legitimate expectations of persons whose retirement is imminent. For them and others who choose to take their earned or dependent benefits at an earlier age, the earnings limit must be raised

to permit adequate income at the same time protecting elderly persons from exploitation in the workplace. If limit there must be, is there any reason why it should not be indexed to the cost of living?

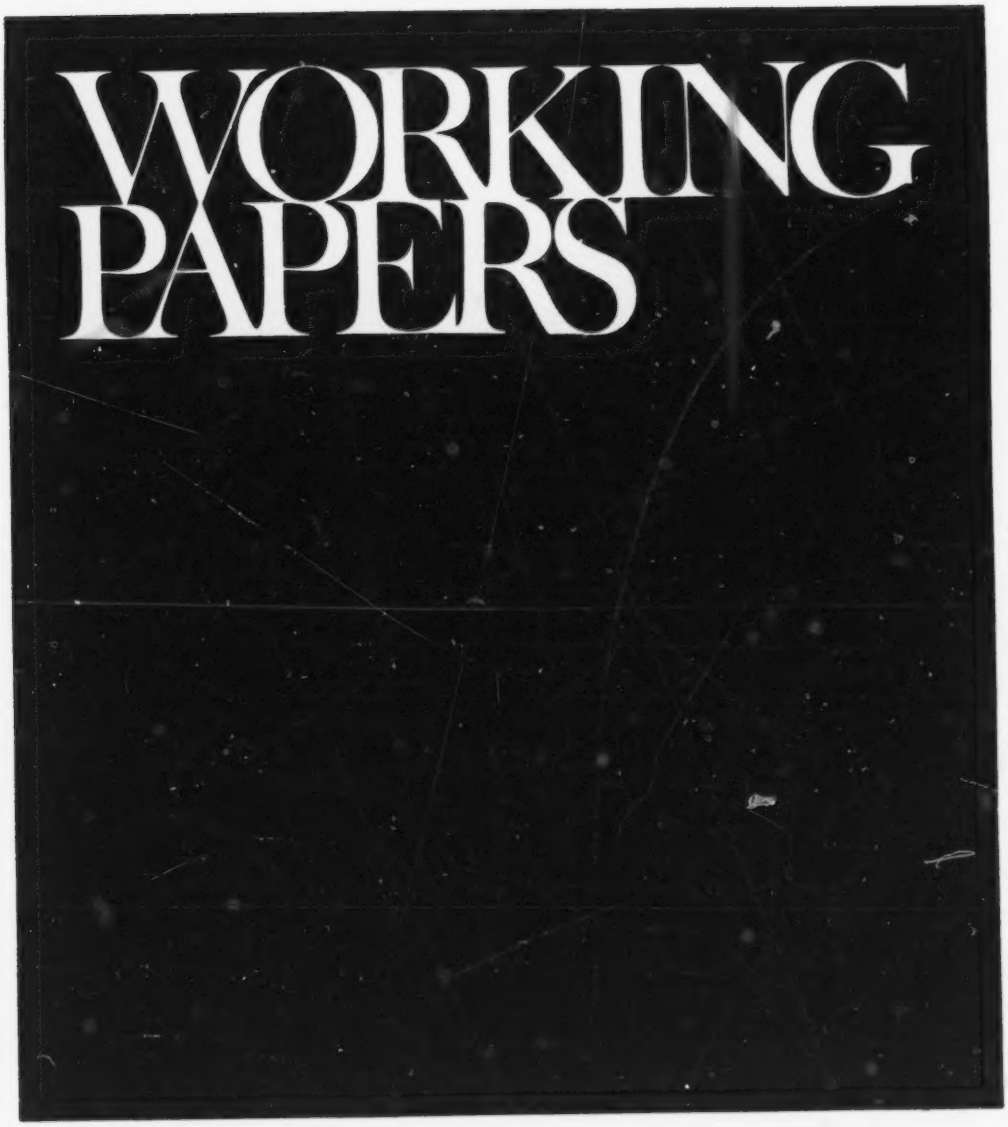
Is there any justification for the continued exclusion of federal, state and local employes from the Social Security system? Adaptation of the railroad workers' two-tier retirement plan would provide a significant new source of funding and limit the opportunities for multiple-dipping. The suggestion of eliminating minimum Social Security payments as a means of reducing double-dipping is a battle-ax approach which would also deprive many of the elderly poor, mostly women, of their only or primary source of income.

Now that women comprise 40 percent of the workforce and two-earner couples are more the rule than the exception, there must be independent benefits and portability for individuals. Our Task Force supports the two-tier plan of universal basic income, and added benefits as earned by accumulated employees and employer contributions.

My personal experience demonstrates the disadvantage to women of dropping only five of the lowest income years in basing retirement benefits on average earnings over a 23-year period. My work record began at 16, working my way through college, but it was extremely erratic with uncovered employment abroad following my ex-husband's Foreign Service career. The opportunity to pay into Social Security as if self-employed under these circumstances, or when employed by non-profit agencies which choose not to pay Social Security contributions would be a desirable remedy. Societal needs require that women not be required to sacrifice future security for extended breaks in employment for child-bearing and during the early years of her children's lives, but also that fathers should have the option of full-time parenting without prejudice to job continuity.

Other adjustments to womens' needs are: 1) provision for triggering benefits by dependent spouses widowed before retirement age, and older spouses now unable to receive benefits until claimed by the young earner spouse; and 2) recognition of the contribution of the homemaker by definition of disability as well as in split benefits.

Women have come a long way indeed in the 50 years since Social Security has been a part of our lives. It is not too much to ask that our economic and social institutions allow us to share the benefits to the extent of our social and economic contribution.



PRESIDENT'S COMMISSION
ON PENSION POLICY

PENSIONS AND DIVORCE

The rights of divorced spouses as they pertain to pension benefits earned in the course of employment during marriage

Brendan O'Farrell
Consultant
President's Commission on
Pension Policy

FOREWARD

Divorced homeworkers or low earning spouses who have not accumulated credits toward retirement face potentially serious problems in old age. The recent increase in divorce rates, the new pension reform law, and changing attitudes towards marriage have focused attention on divorce settlements that award a person a share in their former spouse's pension. While some settlements consider pensions acquired during marriage part of the couple's property and, therefore, subject to division, other settlements ignore pensions. Even when courts divided pension assets, the settlement does not necessarily result in retirement income for the nonemployee spouse.

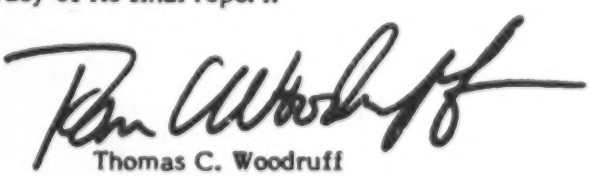
The treatment of pensions in divorce settlements varies greatly by state. The eight community property states view marriage as an equal partnership and, upon divorce, divide property acquired during the marriage equally between the spouses. Seven additional states have adopted the Uniform Dissolution of Marriage Act that also equally divides property acquired during marriage. However, some states do not consider future entitlement to a pension as the employee's property, especially if the pension is not vested. Therefore, pension assets are not valued in some divorce settlements, even in states where marraige is viewed as an equal partnership. The 12 common law states equally divide only jointly held assets, but some allow the court to "equitably" distribute property at divorce, which may or may not include pension assets. The other 23 states generally give the courts discretion to divide a couple's assets in a fair manner.

Recently, the courts have begun to grapple with the treatment of pensions in divorce settlements. However, there are several unresolved issues in allocating pension entitlement between the divorced spouses, including: how to allocate the pension between the spouses, whether receipt of the nonemployee's pension share should be immediate or deferred and who should administer the distribution of the pension shares. While accepted practices are developing in California, no national consensus exists on pension entitlements upon divorce.

In an attempt to encourage an equitable approach to dealing with spouse's pension rights in a divorce situation, the Commission tentatively recommended in its May 1980 Interim Report that pensions be viewed as property. This paper discusses issues related to implementing that recommendation.

The pension benefit earned by the working spouse could be, in many cases, the most valuable asset in a marrage, far exceeding the value of the family home. Consistent and fair treatment of pension assets in divorce settlements could substantially improve the retirement security of divorced homemakers and low earning spouses, many of whom must now depend solely on meager social security or welfare benefits.

The President's Commission on Pension Policy welcomes and encourages comments on this study, both for the benefit of the Commissioners and for the accuracy of its final report.



Thomas C. Woodruff
Executive Director
President's Commission on
Pension Policy

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I. INTRODUCTION

The question of spousal rights after divorce as they pertain to employee retirement benefits earned in the course of employment during marriage is a difficult one for many reasons. Principal among these are:

- The treatment of property upon divorce differs substantially among states.
- Pensions are not considered divisible property in some states.
- In many plans, "accrued benefits" are earned largely in the last few years of employment.
- Few plans provide for payment of survivor benefits to a divorced spouse.

In its Interim Report, issued in May of 1980, the Commission tentatively recommended that "Pensions should be defined as property." The basic intent of this statement is that a non-employed spouse whose share of marital community responsibility has centered around home and children should not be left without pension income as a consequence of divorce; particularly where pension benefits have been accrued during the marriage and credited to the employed spouse. As shown in Chart 1, although marriage rates seem to have stabilized over the past 30 years, the divorce rate for the nation has steadily increased, nearly doubling in the same period.

In principle, the concept of co-equal earnings is the foundation of "community property" laws in states whose divorce statutes provide for equal division of property accumulated from community earnings during marriage. However, even in community property states, the extent to which earned pensions are considered divisible property and the methods of division vary greatly from one state to the next and even between cases in a single state.

This Working Paper examines the various factors involved in and alternative approaches to consideration of pension rights in divorce.

For purposes of simplicity and clarity, certain technical details* of law and regulation governing employee pensions have been disregarded in illustration of benefits. In the opinion of the author, these details would not have a material effect on the illustrated results, but readers should be aware that such details exist and will affect the precise calculation of benefits.

There are various types of sponsorships, financing methods; vesting, accrual and benefit or contribution formulas; and ancillary benefits that may be used by a plan. Each of these characteristics may affect the possible division of pension benefits as property under a plan. Appendix A describes the different forms these characteristics may take.

*Such as accrual, vesting and break-in-service regulations issued subsequent to ERISA.

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II. THE LEGAL ENVIRONMENT

A. Community Property

Of the fifty states, eight are categorized as "Community Property States". One fundamental principle of community property law is that all earnings derived from the labor of both partners during the marriage are owned equally by each partner and all property acquired during marriage from the utilization of those earnings is an asset of the marital community owned jointly and equally by each partner.

Generally, property owned prior to the marriage by either partner, as well as income generated by or from such property, is the "separate property" of that partner. Additionally, most Community Property States classify property inherited by either partner, even during marriage, as the separate property of that partner.

There are innumerable technical exceptions to these principles in specific cases, but the foregoing paragraphs fairly express the conceptual basis of property classification in community property jurisdictions.

In jurisdictions other than Community Property States ("Common Law" Property States as distinguished from Community Property States), property is generally owned by the partner who earned it or whose earnings purchased it. However, in the event of divorce, the law in most of these states allows the court to disregard title or ownership in dividing property. 1

B. Division of Property

In addition to establishing the basis for **classification** of property, state law also provides for **division** of property in a divorce. It is important to recognize that, even among Community Property States whose laws regarding classification may be nearly identical, statutory bases of property division may be completely different.

To illustrate this point, we will examine the basic statutory provisions regarding division of property in divorce in four states: California, Illinois, New York and Washington. The first three are cited because of their substantial populations and leadership position in the making of new law and the fourth is included because of its particular statute regarding property division. Additionally, California and Washington are Community Property States with fairly well developed case law regarding the consideration of earned pension benefits as an asset of the marital community.

1. **Statutory Basis of Property Division**
In each state, the statute governing divorce provides for the dispositon of property and in each of the four states we are considering, those provisions are different. [2]

In California, the most populous community property state, the law is well defined and provides that **all community property** shall be divided equally between the parties. Further provision is, of course, made for child support and, in some cases, alimony or maintenance. In Washington, however, another community property state, the law provides that ". . . . . the court shall, without regard to marital misconduct, make such disposition of the property and liabilities of the parties, **either community or separate**, as shall appear just and equitable after considering all relevant factors . . . . ." The consideration of **separate** property in the Washington statute adds an additional complication to the possible division of earned pension rights. In common law property states, courts may generally disregard ownership of property in awarding either property or income in a divorce. Consideration of earned pension rights in divorces is not commonly addressed in statutes and is more frequently overlooked in divorce proceedings or the case law arising from such proceedings.

At this time, only eight of the common law property states, including Illinois, have ruled on spousal claims for a share of earned pension rights in divorce. [3]

The basic statutory provisions for awarding property in divorce in New York, as in other states, make no mention of consideration of earned pension rights as divisable property and, in fact, the New York divorce law makes no mention of classification of property as marital or non-marital.

In Illinois, the divorce statute provides that:

" In a proceeding for dissolution of marriage or declaration of invalidity of marriage, or in a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's non-marital property without regard to marital misconduct in just proportions considering all relevant factors, including.

(1) the contribution or dissipation of each party in the acquisition, preservation or depreciation or appreciation in value, of the marital and non-marital property, including the contribution of a spouse as a homemaker or to the family unit;
(2) the value of the property set aside to each spouse;
(3) the duration of the marriage;
(4) the relevant economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home, or the right to live therein for reasonable periods, to the spouse having custody of the children;
(5) any obligations and rights arising from a prior marriage of either party;
(6) any antenuptial agreement of the parties;
(7) the age, health, station, occupation, amount and sources of income. vocational skills, employability, estate, liabilities, and needs of each of the parties;
(8) the custodial provisions for any children;
(9) whether the apportionment is in lieu of or in addition to maintenance; and
(10) the reasonable opportunity of each spouse for future acquisition of capital assets and income." 4

This common law property statute is similar to the law of California in that separate or "non-marital" property is excluded from division. However, marital property (the approximate equivalent of community property) is to be divided in "just proportions" considering all of the relevant factors mentioned.

The foregoing examples of statutory provisions regarding property division in divorce sho the considerable differences which exist between the various states. Examination of the statutes of other states shows further differences in specific provisions although these four are representative of the range of difference encountered.

2. **Case Law Regarding Spousal Rights in Retirement Benefits**
In each state, definitive rulings as to specific earnings, property and/or entitlements to be considered in divorce are to be found in case law as opposed to statute. Whereas statutory provisions tend to be fairly broad, the precedents set in specific cases by rulings of the appellate and higher (supreme) level courts provide an amplification of statutory provisions and deal with specific situations. These rulings may be relied upon by lower courts in determining the proper consideration of property division in similar situations.

Most community property states and an increasing number of common law property states (which by statute or case law authorize divorce courts to distribute marital property) have recognized spousal interests in retirement benefits upon divorce.

In a 1976 California State Supreme Court case (in re: Marriage of Brown, 544 P.2d 561), the court held that the spouse had a community interest in the full accrued benefit earned during the term of the marriage. This case is particularly important because in prior cases, only vested pension benefits had usually been considered as an asset of the community.

In Washington, case law authorizes consideration of a non-vested pension benefit only "when the probability of not achieving vested status is considered so small as to be inconsequential".

In Illinois, cases have specifically ruled that pension benefits earned during marriage fall within the definition of marital property available for division. However, no definitive rulings regarding consideration of non-vested benefits, the method of valuation or the time of division are to be found.

In New York, the only references to pensions in related case law allow a former spouse access to retirement accounts or a share of retirement benefits in pay status to enforce collection of alimony, child support or prior judgement obtained pursuant to the original divorce proceeding.

TABLE NUMBER 1

Allocation of Defined Contribution Account Balance to Marital and Pre-Marital Participation

	Approach (a)	Approach (b)
1. Contributions made prior to marriage	$ 770.	$ 770.
2. Contributions made during marriage	1,379.	1,379.
3. Interest earned on pre-marital contributions	3,809.	3,809.
4. Interest earned on marital contributions	2,250.	2,250.
5 Portion of account allocated to marriage	3,628. (45%)	4,104. (50%)
6. Portion of account allocated to pre-marriage	4,580. (55%)	4,104. (50%)

As one can readily see, alternate methods of division do not make any substantial difference in the result for this example. Except in the case of extreme differences in either contribution rates or investment returns in the pre-marital and marital periods, the results achieved under either method of allocation will make little difference.

The question of property interest in non-vested defined contribution plan accounts presents far more complex technical issues. The actuarial aspects of this are discussed further in Section III. The eventual receipt of non-vested benefits accrued or earned during marriage is contingent upon continued employment. If continued employment were completely within the employee's control, one might argue more vigorously for consideration of non-vested interest. Conversely, even if such control did exist, courts might be reluctant to have the terms of a divorce decree impact an individual's options for employment after divorce. Continuation of employment is subject to many external factors completely beyond the employee's control. Even the emotional stress associated with divorce itself may affect an individual's job performance and impact prospects for continued employment. Accordingly, computing a reasonable current value of non-vested accounts is speculative at best. An alternative is to require deferred payment if and when non-vested accounts become vested and payable. Unfortunately, this approach delays finalizing the settlement and creates additional legal and administrative expense. The related case law in several states interprets a clear legislative intent to make settlements complete and final as soon as possible.

In cases where retirement benefits are earned during marriage under the provisions of a defined benefit pension plan, many of the same difficulties exist. The problem of allocation of benefits to pre-marital and marital service is much more pronounced in some defined benefit plans. As is shown in Appendix A, patterns of benefit accrual over a working career vary greatly between different benefit formulas. Of course, if an entire benefit is earned during marriage, allocation of interest to the period of marriage is automatic. When a portion of the benefit is earned either prior to or subsequent to (different than defined contribution plans) the marriage, the selected method of allocation can result in substantially different amounts being effectively credited to the period of marriage.

In plans in which the benefit formula is expressed as a function of final pay and particularly those which are integrated with the benefits of Social Security, the accrual of benefits is weighted heavily toward the later years of employment.

In defined benefit plans, there are three commonly encountered alternative approaches to the allocation of interest to marital service:

(1) to assign to the term of marriage the difference between the benefit accrued at time of marriage and the benefit accrued at time of divorce without regard to any future accrual attributable to service during the marriage and salary increases after the marriage. (This approach has been referred to as the "benefits-rule" method or "accrued benefit" method".) Chart Number 2 shows the effect of this method when allocating benefits accrued under Formula Number 2 assuming participation in the plan at age 35, marriage at age 40 and divorce at age 50.

3. **Methods of Considering Spousal Interest**

In each state, divorce courts are generally granted a considerable degree of latitude in fairly dividing marital property between divorcing spouses. The courts consider divisible property in total and, rather than dividing each separate asset equally between the two parties (a practice which would further complicate divorce proceedings and could cause direct financial loss if untimely liquidation were necessary), usually divide the total assets by awarding full interest in each to one party or the other. As is mentioned earlier, in California, this would result in awarding full title in two groups of assets having approximately equal value, sometimes accompanied by a cash settlement to account for any difference in value of the divided property. In Washington, however, the divided values can be, and often are, substantially different. [5]

Pension benefits (particularly in defined benefit plans) earned during a marriage may, however, be considered separately from other marital property and divided between the parties when actually received. For annuity benefits in pay status, this is a common approach.

In cases where assets are divided completely at the time of divorce, a commuted or actuarial present value must be established for the benefits earned during marriage but payable at some future date. Case law is uniform devoid of any detailed methodology regarding establishment of current and substantial variations in the methodology accepted by courts exists all jurisdictions. This additional problem is discussed in detail in Section of this paper.

Our discussion to this point has focused solely on property division determined by the court. It is important to note that division of marital property in many cases is the result of a "settlement" agreed to by the two parties without the need for ajudication. Unless it appears that an agreed upon settlement is clearly inequitable, or faulty in terms of consideration, courts are generally reluctant to interfere with such agreements.

In cases where a vested interest has been earned during marriage in a defined contribution plan, the property value of such interest is directly determinable if the entire interest has been earned during the marriage. The property interest is simply the reported (fair market) value of the employee's vested account. Certain questions arise, however, when a portion of the account has been accumulated prior to the marriage or when a portion of the account is not vested at the time of divorce.

B. Plan Types

The Employee Retirement Income Security Act of 1974 (ERISA) divides all private retirement plans into two major categories:

- DEFINED CONTRIBUTION PLANS, and
- DEFINED BENEFIT PLANS

A "defined contribution plan" is a program where contributions are allocated to individual employee accounts and the accumulated benefit at any point in time is equal to the sum of all prior contributions to the individual account and a proportionately allocated share of investment gains and losses over the period the account has existed.

Chart Number 4 illustrates the thirty year career salary pattern for an employee, now age 50, with a current monthly salary of $2,000 and assuming both retrospective and prospective salary increases of 6% per year, compounded annually.

Chart Number 5 shows a typical pattern of annual contributions and accumulation of an individual non-contributory defined contribution account over a thirty year employment period from age 35 to age 65, assuming investment return of 7% per year and employer contributions equal to 7% of salary for an employee, now age 50 with a current monthly salary of $2,000.

In the first instance, the difficulty arises in determining the proper allocation of the account between pre-marital and marital service. As can be seen in Charts 4 and 5 (Appendix A), the accumulation of benefits in a defined contribution plan is usually weighted to later years of service. This results both from the probable pattern of increasing contributions as a function of increasing salaries and from the time-weighted nature of compounded investment return.

Alternative approaches to allocation of defined contribution accounts between pre-marital and marital service are:

(a) to compute the portion of the account earned during marriage on the basis of the actual contributions made during marriage and investment gains or losses accrued on those specific contributions to the time of divorce.

(b) to compute the portion of the account earned during marriage simply by multiplying the total account value at time of divorce by the ratio of marital participation to total participation.

Although the first approach may be technically preferable because it closely reflects the concept of "community property", it requires complete historical contribution and investment result data to be precisely computed and therefore presents considerable administrative difficulties, both for the court and the plan sponsor. The second approach is less technically appealing but presents no administrative problems.

Table Number 1 shows the variation in pre-marital and marital allocation for our hypothetical 50 year old employee assuming marriage at age 45 after 10 years of plan participation and divorce at age 55.

CHART #1

MARRIAGE AND DIVORCE RATES

Rate Per 1,000 of Population

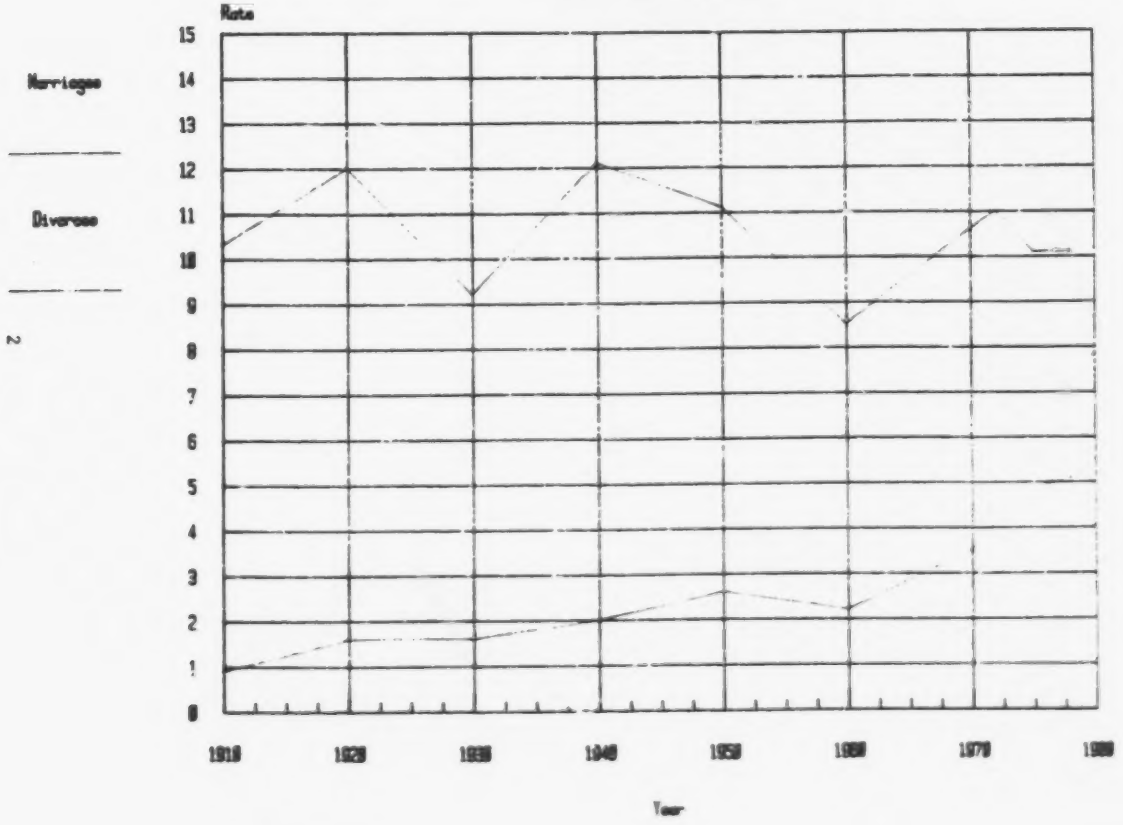

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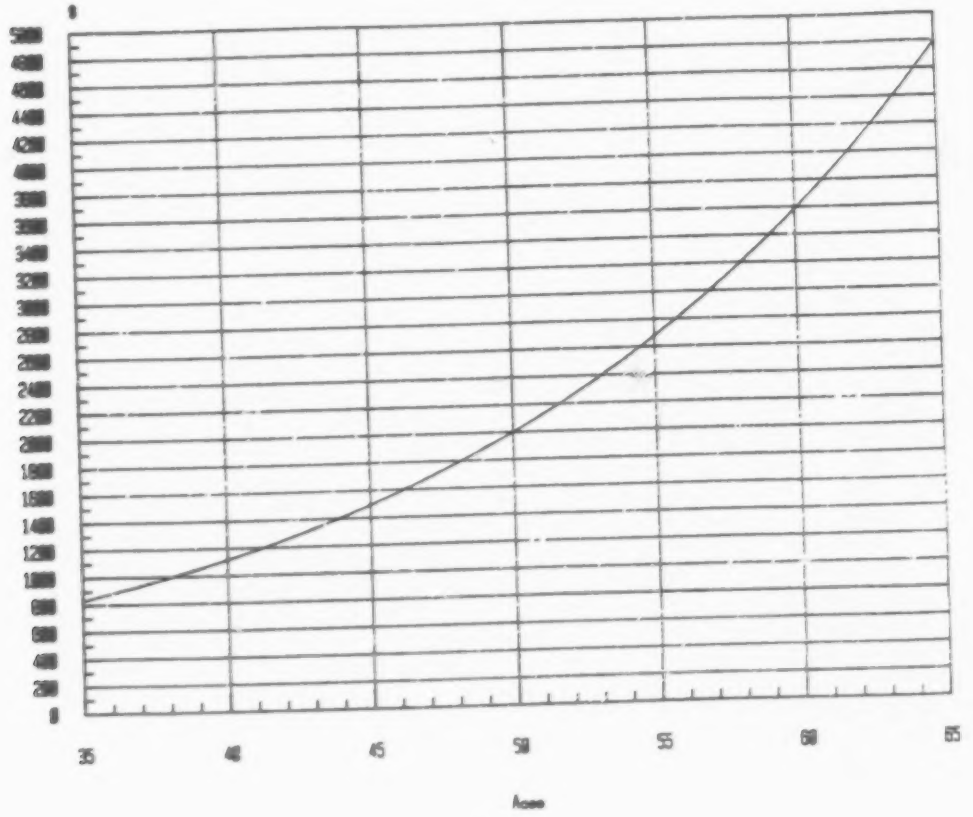
CHART 44

ILLUSTRATION OF PROJECTED SALARIES

Present Age = 58 Assumed Increase = 8%



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(2) to assign to the term of the marriage a portion of the total benefit accrued at the time of divorce by multiplying that benefit by the ratio of the term of the marriage to the total period of accrual service. (This approach has been referred to as the "time-rule" method.) Chart Number 3 illustrates the effect of this method.

(3) to project the expected total benefit payable at retirement based on assumed future salary increases and probable continuation of employment and to assign a portion of the total projected benefit to the term of the marriage by multiplying the total projected benefit by the ratio of the term of the marriage to the total potential accrual service at retirement. (Where division of benefits is delayed to actual retirement, no projection is necessary.)

The first two approaches are applicable to cases where complete property division is made at the time of divorce but result in quite different allocations as shown in Charts 2 and 3. The third approach, although encountered occasionally in such divisions, is highly speculative and, in the opinion of the author, extremely improper.

The problem of awarding an interest in non-vested benefits where property is completely divided on a current value basis at time of divorce is similar to the problem in defined contribution plans. Where division of pension benefits is deferred until actual time of receipt, the question of vesting becomes a moot point. However, the deferral of division causes additional legal and administrative expense and may unnecessarily require continued contact between the former spouses who may, quite properly, wish to completely dissolve their relationship and settle all property division at time of divorce. A more persuasive argument may be made for deferral of division until time of receipt in cases where the divorce occurs close to retirement, particularly if the marriage is of long duration. In these cases, a non-employed spouse may have particular need of retirement income. However, in most cases, when the division is deferred until actual time of receipt, the non-employed spouse will lose all benefits if the employed spouse dies prior to retirement. For this reason, some courts require the purchase of life insurance for the benefit of the former spouse as a provision of the settlement decree. As was mentioned earlier, very few plans, if any, provide any survivor protection to divorced spouses.

As is noted in Appendix A of this paper, many plans provide substantial death and survivor benefits to spouse beneficiaries. It is often possible that the death or survivor benefit lost to a former spouse in the event of divorce may have a value greater than one half the community asset value of the primary benefit payable to the employed participant spouse. From an actuarial standpoint, the lost death or survivor benefit may be valued as a "reversionary annuity". Consideration by the court of the value of lost death and survivor benefits becomes particularly important when divorce occurs after a marriage of long duration or close to retirement, especially if a non-working spouse has had no opportunity to earn pension benefits in his or her own right.

III. ACTUARIAL CONSIDERATIONS

Except as they pertain to the estimation of probability of continued employment to attainment of full vesting, there are no actuarial considerations with regard to determination of property rights in defined contribution plans. Defined contribution vested accounts are never subject to forfeiture in the event of death and, in fact, nonvested accounts become automatically fully vested in the event of death or permanent disability in the vast majority of plans. 6

In determining property interests and the desired time of division in defined benefit plans, there are a number of substantive actuarial considerations. Since, in many cases, all questions of property division in divorce are determined by way of an adversary proceeding, subjectivity of methods, from an actuarial standpoint, can have considerable impact on the specific results of a particular case. As is previously noted, wide variations in methodology have been accepted by courts located within single jurisdictions.

Additionally, estimates of value are routinely made by "expert witnesses" who are wittingly or unwittingly supporting an advocacy position of one party rather than providing a legally required unbiased opinion. Accordingly, it is the opinion of the author that a substantive contribution can be made by the Commission in the area of pension rights in divorce simply by promulgating policy guidelines for standards and actuarial methodology employed in the valuation of pension entitlements.

A. Assumption of Risk

The ultimate payment of pension benefits as well as the amount received at time of payment is contingent upon a number of factors. For all defined benefit plans, payment of benefits and amount of benefit are contingent or partially contingent upon continued employment, survival of the employee, continuation of the sponsoring entity and continuation of the plan. In each instance, there is an accompanying risk of non-payment or reduced payment. In plans providing a benefit expressed as a function of final pay, amount of benefit is contingent upon future salary changes.

When interest in a defined benefit plan is divided (or considered in division) at the time of divorce, it is common to consider probable survival of the employed spouse in computing a current value of benefits. However, once the division is made, all risk of non-payment or reduced payment is assumed by the employed spouse. When division is deferred until actual time of payment, such risks are assumed equally by both spouses.

Equally and equitably, however, are not synonymous. This distinction is particularly important in the event of death. Non-payment of benefits as a result of death is of little real consequence to the deceased employed spouse. It may, on the other hand, be financially catastrophic for the non-employed surviving former spouse. This is a probable result when the surviving former spouse, divorced late in life, has had no opportunity to earn retirement benefits in his or her own right.

B. Establishing Current Values

In determining the commuted or present value of a benefit due in the future, it is necessary to consider those reasonably predictable future contingencies which will affect the payment or non-payment of the benefit. Additionally, calculation of a present value requires discounting for an appropriate rate of assumed interest or investment return.

Reasonable predictability as it applies to a population of one is non-existent. However, it is appropriate to base assumptions as to future events on the experience of statistically significant groups of similarly situated persons. For example, in the absence of any specific evidence of medical impairments affecting survival, it is most reasonable to base assumptions of survival on the mortality statistics of the general population or the general population of employed persons. Any recent widely accepted table of annuitant mortality should suffice.

Unless current values are being computed for a non-vested benefit, probability of survival and rate of interest are the only needed assumptions unless there is evidence that either the plan or sponsoring entity are likely to terminate.

The valuation rate of intrest, which is the most significant factor in computing a present value, should be selected on an objective basis related to the characteristics of the benefit being valued. In general, a future pension benefit has the same characteristics as a deferred life annuity. During the deferral period (from valuation date to the date payments are expected to commence), all interest is added to the principal. After payments commence, an annuity distribution consists of both principal and interest.

Accordingly, the valuation rate of interest for determining present value should be based upon available rates of return in the immediate locale on secure fixed income investments for similar sums, for a term approximately equal to the deferral period and, after the expiration of the deferral period, a rate of probable return considering the annuity characteristic of distribution of both principal and interest. Various U.S. Government securities with published current yields for specified terms and amounts should provide a reasonable basis of assumption for the deferral period. Assumptions as to probable rates of available return after the expiration of the deferral period should be based either on guaranteed purchase rates for deferred annuities offered by insurance companies or historical rates for secure fixed income investments providing a distribution of both principal and interest, approximating the character of a life annuity.

In computing a present value of non-vested benefits, probability of continued employment to attainment of full vesting must be considered As is discussed earlier, the variety of factors impacting continuation of employment makes estimates highly speculative. If the employee is in a very large company or industry for which published experience data is readily available, the assumption can reasonably be based on that data. For other cases, a general assumption derived from national work force participation and mobility data would be the most appropriate.

If the specific medical history of an individual shows probable impaired mortality, an appropriate adjustment in value should be made based upon published data regarding medical impairments. In this instance, lost death or survivor benefits should always be taken into account.

Law Covering Federal Employees

Until 1978 there were no provisions for direct payment of any part of a Federal employee's pension or a survivor annuity to a former spouse. That year, however, P.L. 95-366 was enacted providing for apportionment of retirement (not survivor) benefits payable under the Civil Service Retirement System when ordered by the appropriate court at divorce, annulment or legal separation.

The provisions of this law were made applicable to the Foreign Service by Executive Order 12145 dated July 18, 1979. The Executive Order has now been superseded in this respect by P. L. 96-465 which gives the spouse or former spouse of a Foreign Service employee the right to half the retirement benefit and that share of the survivor annuity earned by the employee during the marriage, unless waived by the spouse or ordered otherwise by the court.

Divorced spouses of Federal employees other than Foreign Service employees are not entitled to survivor benefits in their capacity as spouses even if the employee spouse wishes to provide for them. Under certain narrow circumstances, a former spouse may, however, qualify as "a person with an insurable interest." This possibility is available only if the employee has not remarried at the time of retirement, is in good health and is willing to pay a higher rate than would be necessary for a surviving spouse. If the employee later remarries, he or she may change the beneficiary to the new spouse, but may not divide the survivor annuity between the two spouses. This option is rarely used to provide for a former spouse.

Recently the Supreme Court granted certiorari in the case of McCarty v. McCarty where the California court had awarded a portion of a military pension to the former spouse as part of a divorce settlement. The retiree is challenging the state court decision on the grounds that the statute providing military pensions did not authorize a sharing with the former spouse.

IV. OPTIONS FOR CONSIDERATION

In its May 1980 Interim Report, the Commission tentatively agreed that state legislatures and divorce courts and attorneys handling martial dissolutions should be encouraged to consider pension benefits earned during marriage as divisible marital property.

The current system of divorce law which allows courts substantial discretion as to the specifics of property division is preferable to any rigid and arbitrary rules for division of pension benefits. Each case is different and the court is in the best position, given a basis for informed judgement as to the value of pension rights, to make a fair and equitable determine of the proper basis for any approach to consideration of all property rights.

However, specific recommendations can be made on policies that are appropriate in different situations. The following options outline procedures and guidelines that could be followed by the courts in the various types of cases when pension benefits are to be treated as divisible property.

Specific Options

1. Pension Benefits Earned During Marriage Under the Provisions of a Defined Contribution Pension Plan

   (a) In the case of vested defined contribution plan account balances accumulated entirely during marriage, the most recently reported fair market value of the vested account at the time of divorce should be considered as equally and jointly owned by the two spouses and be taken into account in the final division of property mandated by the court or agreed to by the parties or, in cases where property is not divided, should be taken into account in determining the award of alimony, maintenance or support.

   (b) In the case of vested defined contribution account balances accumulated both prior to and during marriage, unless the complete historical record of contributions and investment experience is readily available, the most recently reported fair market value of the vested account should be allocated between pre-marital and marital participation in the ratio of the term of marriage to the total term of plan participation. If complete historical data is available without substantial investigation on the part of the parties, the court or the sponsoring employer, the account may be allocated on the basis of actual pre-marital and marital contributions with investment earnings or losses thereon. After such allocation is made, consideration of the portion allocated to marital participation should be made as in B.1.(a) above.

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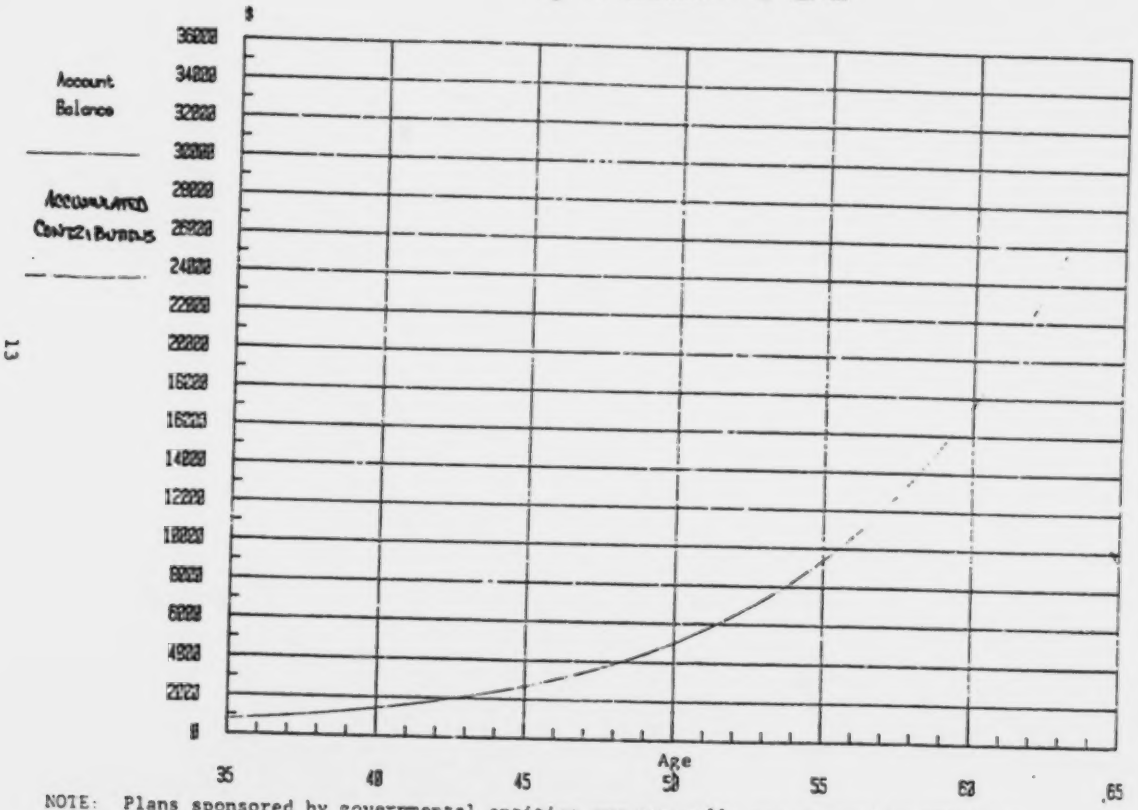
CHART 6 5

DEFINED CONTRIBUTION ACCOUNT BALANCES

Age =52, Contribution = 7%, AIR =7%



NOTE: Plans sponsored by governmental entities are generally not covered by ERISA but may have similar characteristics to private plans.

CHART #2

ALLOCATION OF BENEFITS ON ERISA ACCRUAL

HIREAGE=35, MAR=48, SEP=58, RET=65

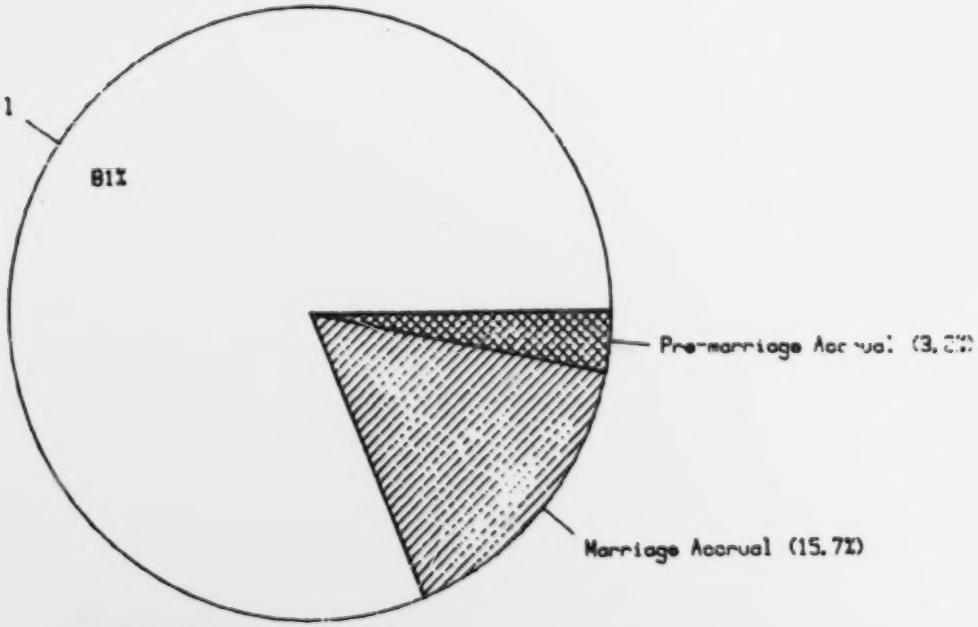


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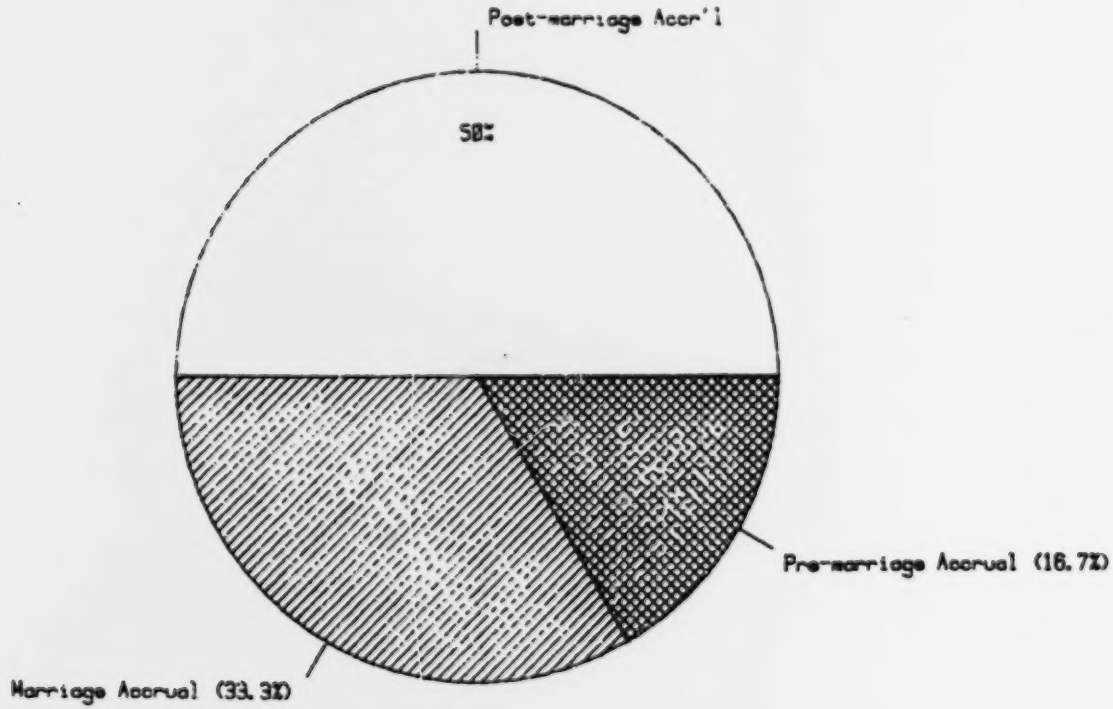
CHART #3

ALLOCATION OF BENEFITS PRO-RATA METHOD

HIREAGE=35, MAR=48, SEP=58, RET=65



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(c) In the case of non-vested defined contribution account balances, no consideration should be given in the division of property unless either:

(i) the non-vested account balance will become fully vested within two years, or

(ii) the age of the employed participant spouse would indicate a negligible probability of voluntary termination of employment for reasons other than retirement and the entire account is at least fifty percent (50%) vested. (An arbitrary age of fifty (50) years would be reasonable.[7])

Under the above circumstances, it is reasonable to consider the vested account balance in a manner similar to the methods outlined above for vested balances with an adjustment calculated by applying the ratio of completed years of vesting service to the total years required for full vesting to the non-vested account balance allocated to marital participation. This method is not intended to reflect the actuarial probability of continued employment to attainment of full vesting but would offer an administratively economical method of reasonably considering non-vested defined contribution accruals which may be presumed to be likely to become fully vested after divorce. This apporach also would eliminate the need to incur the expense of retaining an actuarial expert for such determinations and would be reasonably equitable for both parties.

2. Pension Benefits Earned During Marriage Under the Provisions of a Defined Benefit Pension Plan

(a) Current or Deferred Division. The first decision which must be made in the possible division of defined benefit pensions in divorce is whether or not to separately consider the pension and defer division until actual time of receipt. As is discussed previously, deferral of division requires additional administrative expense and many cause unnecessary or undesirable prolongation of contact between former spouses who properly wish to see a final distribution at time of divorce. Accordingly, division of pension benefits should be deferred until actual receipt only:

(i) if the benefit earned during marriage is substantial (more than $100 per month payable at age 65 or earlier), and if the marriage is of long duration (at least ten years), or

(ii) if the circumstances, including age, employment experience, health and other sources of income, of the non-employed spouse are such that a need for retirement income from the pension plan is probable and the probable opportunity to accrue pension benefits is slight.

In these cases, it is important to consider the loss of survivor benefits as a result of the divorce and to make provisions for the protection of the former spouse's interest in the deferred benefit in the event of the death of the employed participant spouse. The court could require the maintenance or purchase of life insurance in an amount sufficient to protect the surviving former spouse's interest as a part of the divorce judgement. The Commission has tentatively recommended that federal law, at some future date, require pension plans to provide survivor protection to divorced spouses. If plans were required to offer survivor protection to divorced spouses, then the court would have additional flexibility in providing the survivor protection.

(b) Apportionment of ultimate benefits between the spouses in cases where division is deferred until actual time of receipt should be made on the basis of the "pro-rata" or "time rule" method described in Section II, B.(3) of this paper. Since the non-employed former spouse is assuming equal risk of survival, continued employment and future salary experience, it is proper that he or she should share in future increments of benefits attributable to salary changes and retroactive plan provision amendments occuring after divorce but accrued on account of credited service during the term of marriage.

(c) In cases where a current or commuted value of pension benefits earned during marriage is to be considered in a total current division of property at the time of divorce, allocation of the benefit to pre-marital and marital periods should be made by applying the time-rule method to the benefit accrued to the date of determination. Depending on the specifics of applicable state law, the date of determination may be the date of divorce, date of marital separation or such other date as may be specified by the court.

(d) In order to establish a current or commuted value of accrued pension benefits a written opinion of commuted value should be obtained from a qualified actuarial expert and that such expert be required to employ the methodology set forth in Section III of this paper (and the appendices hereto) with respect to selection of relevant assumptions on which the commuted value is based. The requirements of the Employee Retirement Income Security Act of 1974 (ERISA) with respect to the

Under a "defined benefit plan" ultimate benefits are determined by a formula which may be a function of salary, length of employment and/or may be "integrated" with benefits from Social Security or another plan to which the employer contributes.

Typical examples of defined benefit formulas are:

Formula Number 1: A monthly pension payable for life and commencing at age 65 equal to $20. multiplied by the number of years of employment.

Formula Number 2: A monthly pension payable for life and commencing at age 65 equal to 1% of average monthly salary in the last five years of employment multiplied by the number of years of employment.

Formula Number 3: A monthly pension payable for life and commencing at age 65 equal to the sum of:

a. 1% of average monthly salary in the last five years of employment, multiplied by the number of years of service.
b. 1% of average monthly salary in the last five years of employment in excess of "Social Security Covered Compensation", multiplied by the number of years of employment.

Employer contributions to a defined benefit plan are determined actuarially, after the application of any employee contributions, under methods prescribed by law. Accordingly, the employer assumes the risk of investment gain or loss.

Table Number 2 illustrates the projected salary and benefits at retirement under each of the three formulas shown above for our hypothetical 50 year old employee, with current monthly salary of $2,000, entering the plan at age 35 and retiring at age 65.

Table Number 2
ILLUSTRATION OF PROJECTED BENEFITS

	Age 65 Projections		
	Monthly Salary	Monthly Benefit	Replacement Ratio *
Formula Number 1	$4,793	$ 620	12.9%
Formula Number 2	4,793	1,486	31.0%
Formula Number 3	4,793	2,538	53.0%

* "Replacement Ratio" shown is the pre-tax ratio of plan benefits to age 65 salary.

C. **Accrued and Vested Benefits**

Under the provisions of ERISA, the "accrued benefit" in a defined benefit plan at any point in time is directly computed on the basis of one of three allowable "methods of accrual" which must be specified in the plan. The most common method applies the benefit formula to the applicable compensation earned to the date of computation, projects potential employment to retirement (age 65) and pro-rates the projected benefit by the ratio of employment to the computation date to the total potential employment[13] as follows:

$$\text{ACCRUED BENEFIT} = \text{PROJECTED BENEFIT} \times \frac{\text{COMPLETED EMPLOYMENT}}{\text{TOTAL POTENTIAL EMPLOYMENT}}$$

It is important to note that in salary related plans, the "projected benefit" at the date of computation is based upon compensation earned to date of computation.

In defined contribution plans, the accrued benefit is equal to (and synonymous with) the individual participant's accumulated account at the date of computation. [14]

Chart Number 6 illustrates the progression of benefit accrual under each of the three formula examples for our hypothetical 50 year old employee.

"Vesting" is a term of law which refers to requirements of ERISA mandating non-forfeitability of benefits under certain conditions. Accrued benefits attributable to employee contributions, as noted previously, are always non-forfeitable and therefore "fully (100%) vested". Accrued benefits attributable to employer contributions become vested in accordance with the specific vesting provisions of each plan.

In defined contribution plans, employer contributions tend to vest more rapidly than employer provided benefits in defined benefit plans. Table Number 2 illustrates typical examples of "vesting schedules" for each type of plan.

Table Number 2
VESTING SCHEDULES

	Vested Percentages	
Completed Years of Employment	**Defined Benefit**	**Defined Contribution**
less than 1	0%	0%
1, but less than 2	0%	10%
2, but less than 3	0%	20%
3, but less than 4	0%	30%
4, but less than 5	40%	40%
5, but less than 6	45%	50%
6, but less than 7	50%	60%
7, but less than 8	60%	70%
8, but less than 9	70%	80%
9, but less than 10	80%	90%
10, but less than 11	90%	100%
11, or more	100%	100%

Charts 7 and 8 illustrate the progression of vested benefits in the hypothetical defined contribution plan and the three hypothetical defined benefit plan examples, respectively.

To further illustrate the relationships between employment and the progression of accrued benefits over a hypothetical thirty-year career, we have divided the career into three chronological trimesters: ages 35-45, 45-55 and 55-65 and provided four "pie charts" (9-12) showing the portions of the total benefit accrued in each trimeser for the four hypothetical plan examples.

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CHART #6

DEFINED BENEFIT ACCRUAL PROGRESSION

Age = 50, Present Salary = $2,000

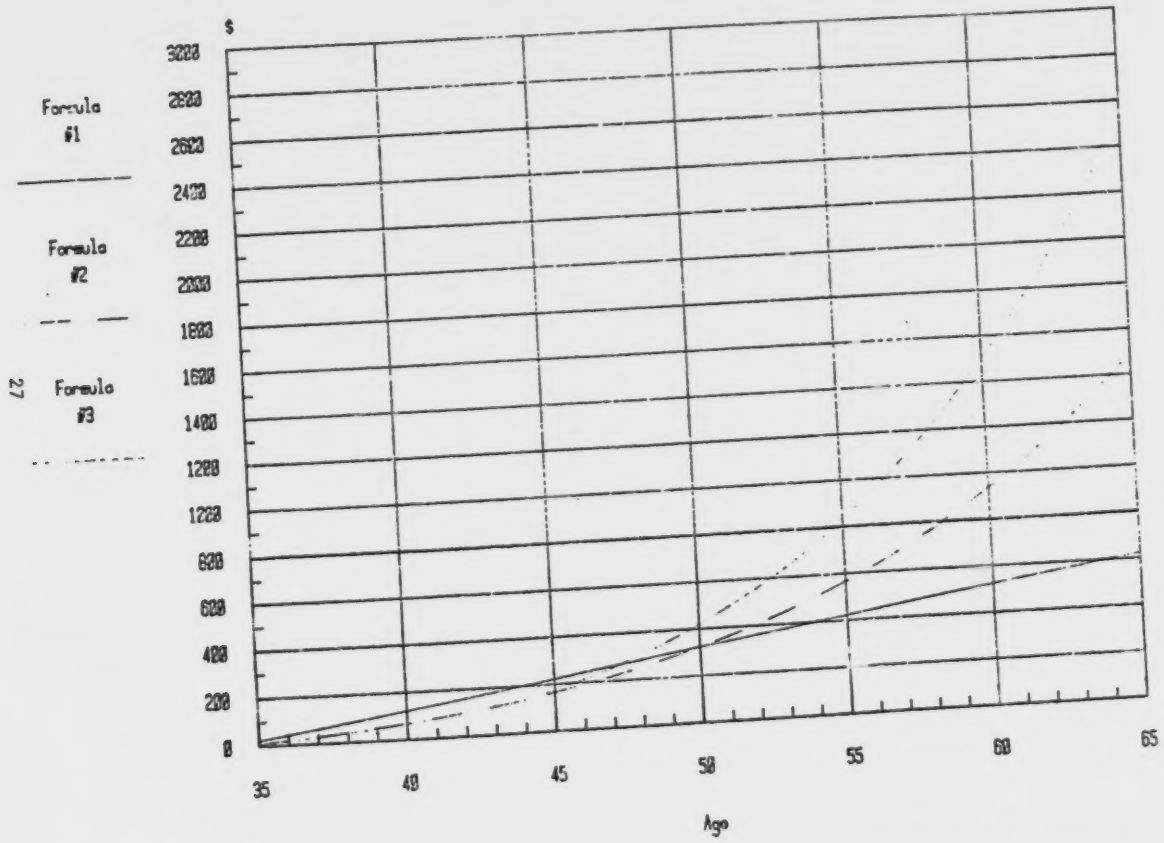

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CHART #7

DEFINED CONTRIBUTION VESTED BALANCES

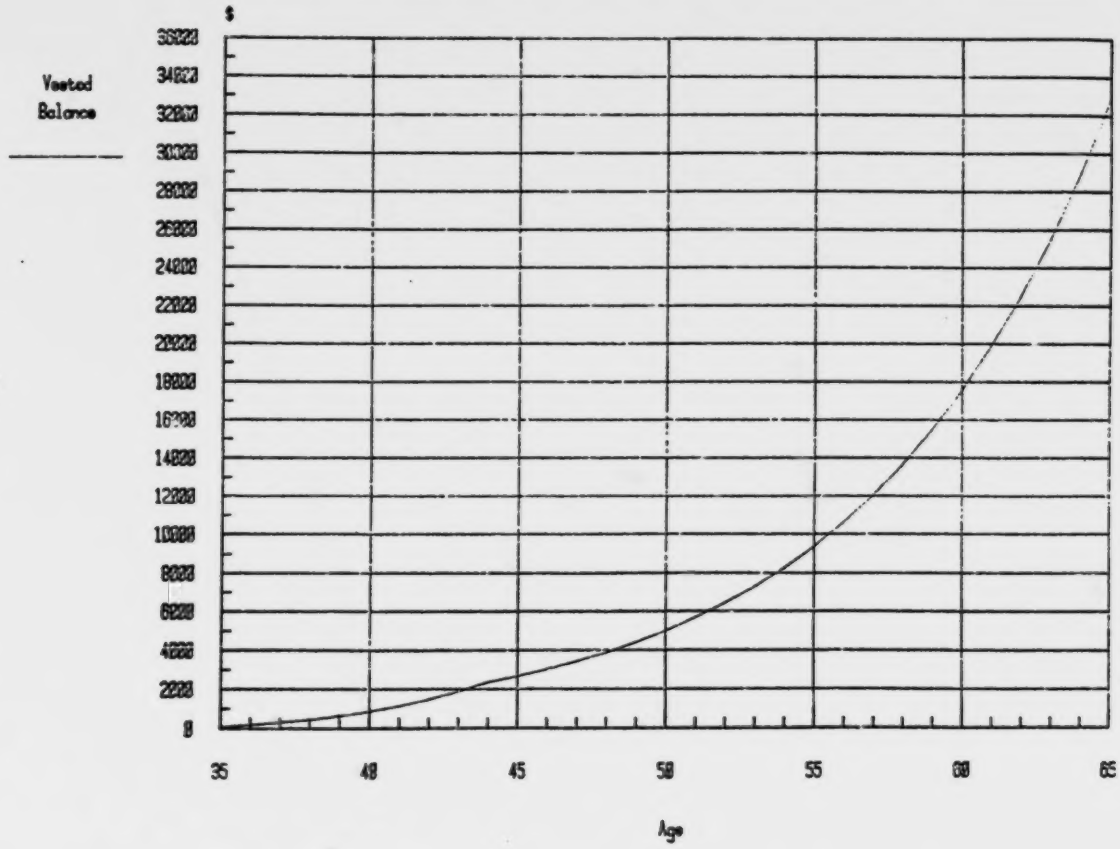
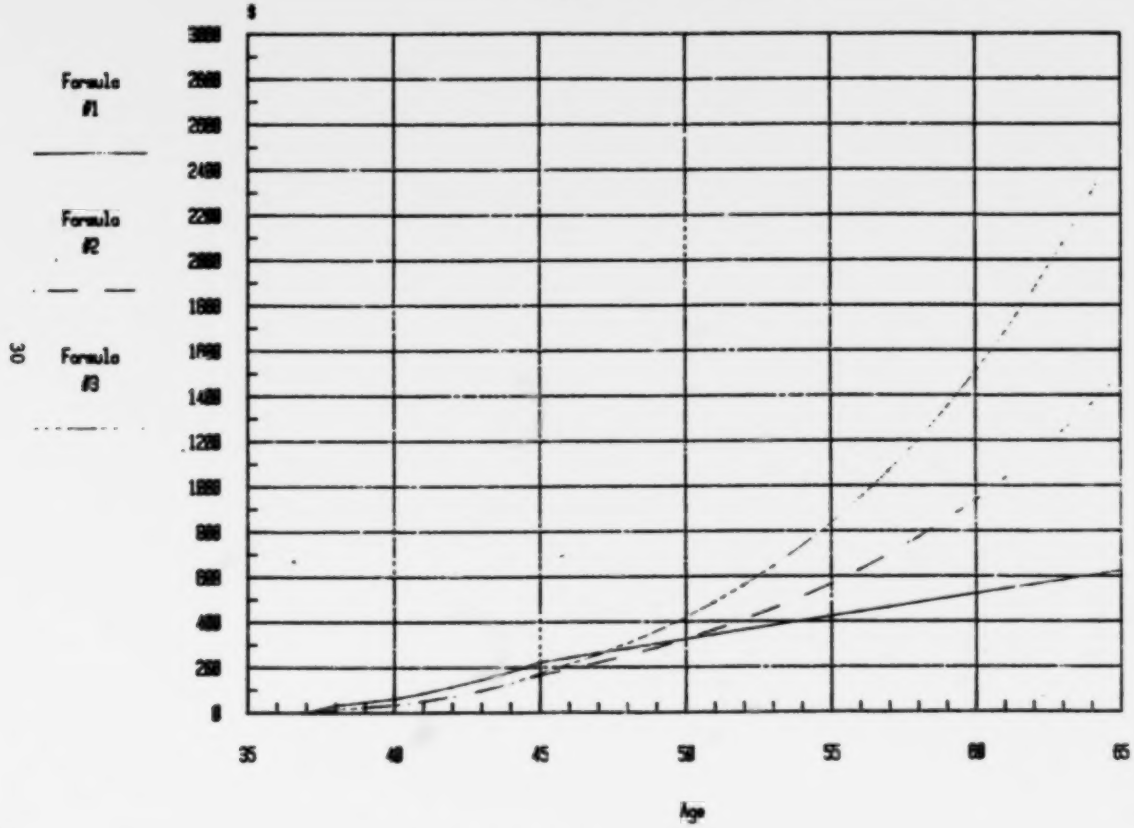


CHART #8

DEFINED BENEFIT PLAN VESTED BENEFITS

Age =58, Present Salary = $2,000



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D. Ancillary Benefits

Federal law defines any benefit provided by a private retirement plan other than vesting and "normal" retirement benefits as "ancillary".

Typical ancillary benefits include optional early retirement, pre-retirement disability benefits and death or survivor benefits. Additionally, private defined benefit plans are required by law to offer a "qualified surviving spouse's pension" from and after the earliest retirement age available under the provisions of the plan to all married employees. This benefit must be at least equal to the spouse's pension payable under an actuarially equivalent joint and 50% contingent survivor benefit based upon the accrued benefit at time of death.

The most common death and disability benefits in defined contribution plans are simple provisions for automatic full vesting.

Many defined benefit plans, however, provide very generous "subsidized" 15
ancillary benefits. Typical examples of such benefits are:

1. For permanent disability at or after satisfaction of the requirements for early retirement, payment of the unreduced accrued normal retirement benefit commencing immediately.

2. In the event of death after satisfaction of the requirements for early retirement, a monthly pension for life payable to the surviving spouse equal to one half the unreduced accrued normal retirement benefit, commencing immediately.

3. For early retirement within three to five years of the normal retirement date, payment of the unreduced accrued normal retirement benefit, commencing immediately.

As shown in Section III, provisions for subsidized ancillary benefits become important in establishing a commuted or single sum value for earned pension benefits.

Additionally, as is mentioned earlier, very few retirement plans, private or public, allow any payment of survivor benefits to divorced former spouses of plan participants.

APPENDIX A
EMPLOYEE RETIREMENT PLANS

A. Sponsors and Financing

Retirement programs for employees are typically established by employers, employing organizations and employee associations. Employers are individuals, partnerships, corporations, state and local governments and the Federal Government. Groups of employers may establish a single "multiple employer" plan and labor organizations, together with participating employers, may establish a single "multi-employer" plan covering members of the labor organization.

Each of these categories of "plan sponsor" has certain general characteristics which may impact the possible division of pension benefits as property. The principal characteristics related to "property" are the sources of financing of plans and the established legal definitions of contributions (financing) by the employer.

1. Employee Contributions
   Any plan which is funded in part by employee contributions is called a "contributory plan". Plans funded entirely by employers are referred to as "non-contributory".

2. Contributions to Multi-employer Plans
   Employer contributions to retirement plans sponsored by joint labor-management trusts under the Taft-Hartley Act and required under the terms of a bargaining agreement are, by law, defined as compensation for services paid "in lieu of wages". Likewise, employer contributions to employer sponsored plans required as a result of collective bargaining are similarly classified. [8]

3. Employer Contributions
   Contributions to employer sponsored plans[9] which are established at the discretion of the employer are defined as "earnings" in some states but under Federal law, are not considered compensation until actually received. [10]

In general, retirement plans sponsored by the Federal Government specifically exclude divorced spouses from survivor benefit protection. This includes military pensions in pay status where the actuarial value of survivor benefits may exceed the value of the primary benefit.

Under any type of plan, contributions made by employees are non-forfeitable and, by definition, are "earnings". Benefits attributable to employer contributions may be subject to forfeiture for a number of reasons, including withdrawal of employee contributions upon termination of employment.

qualifications of actuaries allowed to certify pension valuations as well as the academic credentials awarded by professional actuarial bodies provide the court a reasonable standard for measuring the qualifications of persons seeking to provide opinions of commuted value of pensions. The court should accept only such opinions as are provided by persons licensed as "enrolled actuaries" pursuant to ERISA. Additional professional credentials which may indicate qualifications are Fellowship or Membership in the American Society of Pension Actuaries, the Casualty Actuarial Society or the Society of Actuaries. Opinions of commuted value should be in writing, should be signed by the person providing them, should include reference to professional license and credentials and should set forth all relevant data, assumptions and methods on which such opinions are based.

APPENDIX B

Specimen Calculation of Commuted Valu

A. Personal Data

1. Husband Participant's Date of Birth: February 20, 1925.

2. Date of Employment: August 14, 1959.

3. Date Pension Accrual Began: January 1, 1961.

4. Date of Marriage: October 11, 1965.

5. Date of Marital Separation: July 10, 1976.

6. Valuation Date: October 1, 1980.

7. Statement of accrued benefits provided by plan administrator shows accrued normal retirement monthly life only pension, commencing March 1,1990 equalling: $532.10.

8. The plan provides for "Rule of 45" vesting and allows early retirement at age 62, with 20 years accrual credit, and no actuarial reduction for early commencement.

B. Actuarial Assumptions

1. Pre-retirement interest. Since the employee is ten years away from normal retirement but only seven years away from age 62, the earliest date at which the accrued benefit is available without reduction, the pre-retirement interest assumption is based on available secure fixed income returns for a term of seven years. For illustration purposes, we will use a pre-retirement rate of nine percent per annum compounded annually.

2. Post-retirement interest. For illustration purposes, we will assume a post-retirement return rate of five percent per annum, compounded annually based upon guaranteed annuity purchase rates available in seven years.

3. Mortality. Assuming no evidence of medical impairments affecting probable survival is presented, we will base "normal" mortality on the 1971 Individual Annuity Mortality Tables with separate rates for males and females.

4. Probability of Continued Employment. Since the benefit is fully vested, continuation of employment is immaterial.

C. **Initial Calculated Data**

1. Participant's age at valuation date:	55.61 years
2. Benefit accrual period:	19.75 years
3. Period of marriage:	13.75 years
4. Portion of accrued pension attributable to marriage (13.75 ÷ 19.75):	69.62%
5. Vested portion:	100%

D. **Valuation Results**

1. Calculation of equivalent single rate of interest based upon complete tabular life expectancy.

   (a) complete life expectancy (from table) = 25.71 years

   (b) $(1.09)^{7}\ (1.05)^{-7} = 4.55$

   (c) $i = (4.55)^{1/25.71} - 1 = 1.06 - 1 = .06$

   Note: calculation of an equivalent single rate is shown for illustration purposes and may be convenient if suitable computer programs for valuing life annuities with varying interest rates are not available.

2. Calculation of a single sum value at age 62

   (a) $(532.10)\ (12\ddot{a}^{(12)}_{62}) = 68,860.74$

   Note: $12\ddot{a}^{(12)}_{62}$ represents standard actuarial notation for the present value at age 62 for $1 of monthly life income.

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CHART #9

Accumulation of an Individual Non-contributory Defined Contribution Account Over A 30-Year Employment Period Assuming Investment Return of 7% Per Year And Employer Contributions Equal to 7% of Salary for an Employee, Now Age 50 with a Current Monthly Salary of $2,000

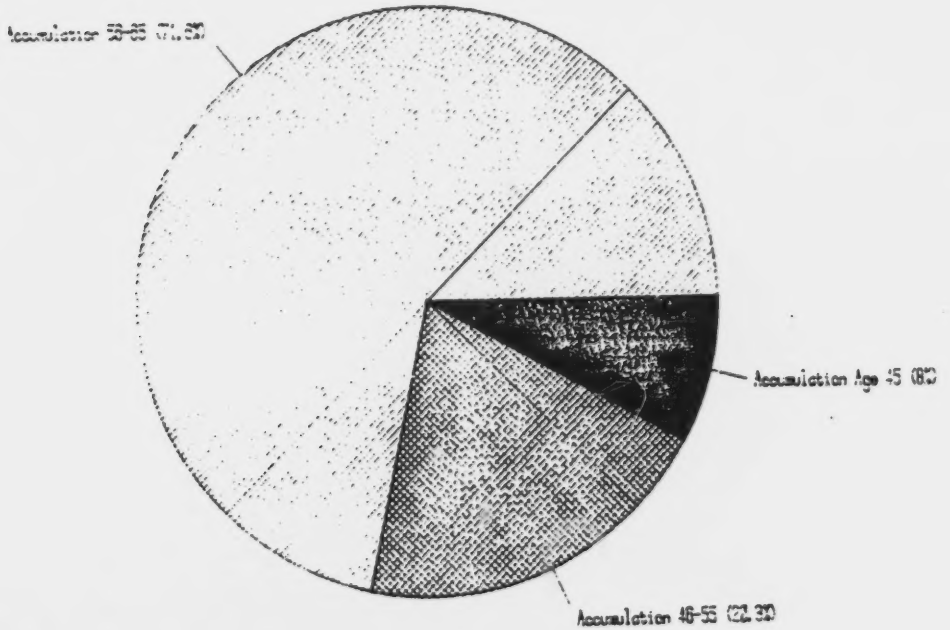

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CHART #10

Benefit Formula: A monthly Pension Payable for Life and Commencing at Age 65 Equal to $20 Multiplied by the Number of Years of Employment

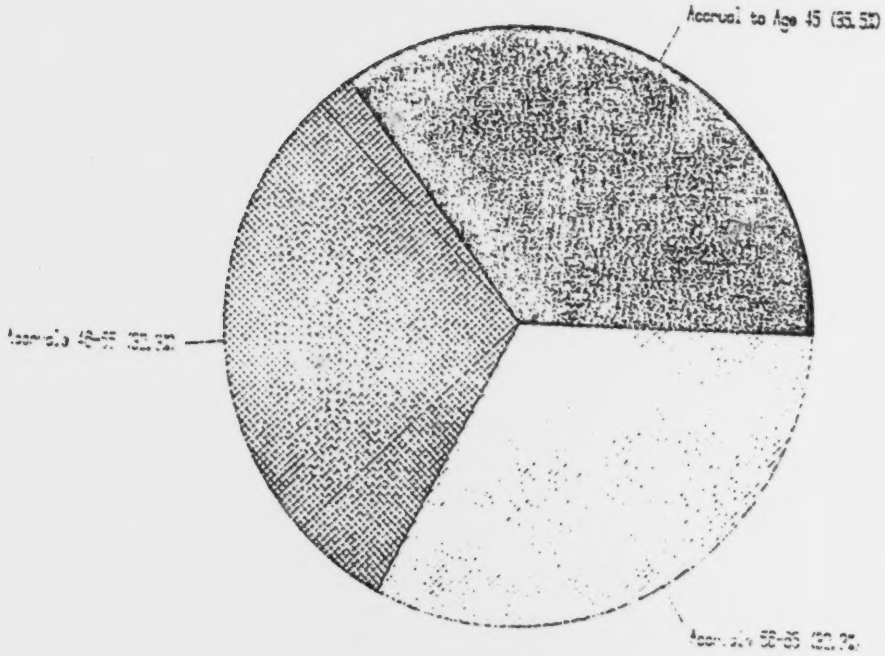

CHART #11

Benefit Formula: A Monthly Pension Payable for Life and Commencing at Age 65 Equal to 1% of Average Monthly Salary in the last 5 Years of Employment Multiplied by the Number of Years of Employment

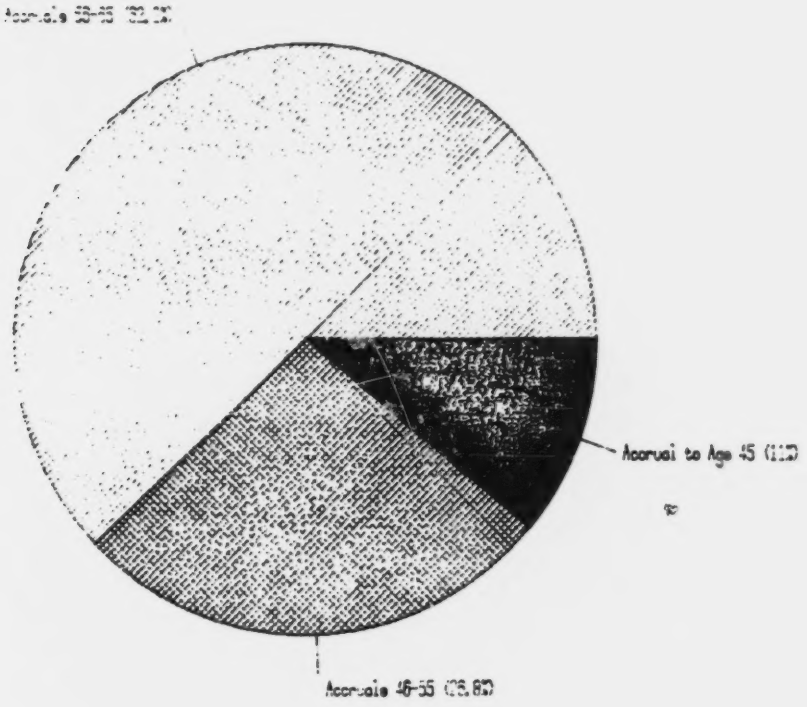

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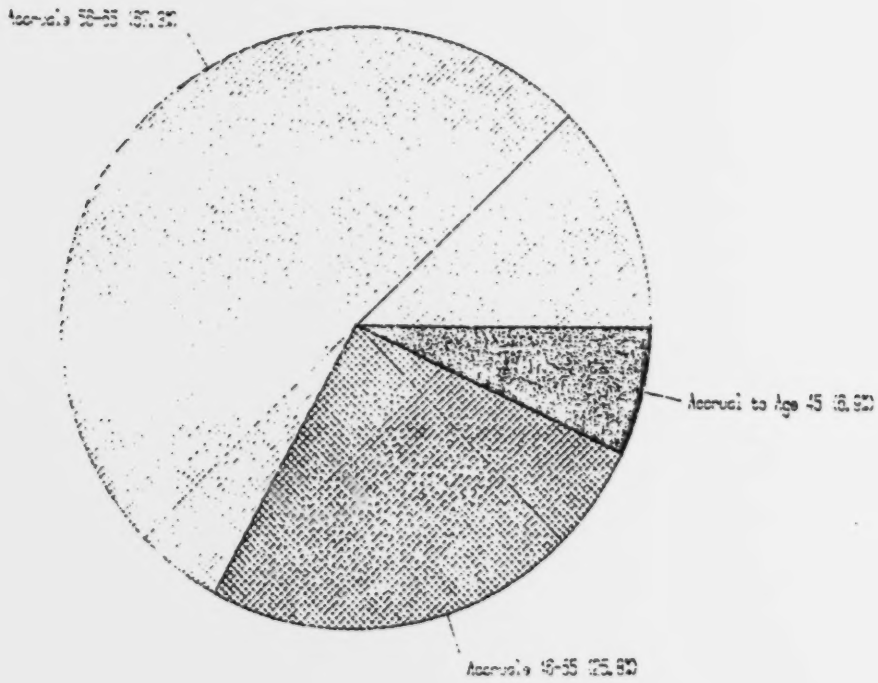
CHART #12

Benefit Formula: A Monthly Pension Payable for Life and Commencing At Age 65 Equal to the Sum of 1% of Average Monthly Salary in the Last Five Years of Employment, Multiplied by the Number of Years of Employment



3. Calculation of commuted value at valuation date

   (a) $(532.10)\ (7|12\ddot{a}_{55}^{(12)}) = \$42,478.61$

   Note: $7|12\ddot{a}_{55}^{(12)}$ represents standard actuarial notation for the present value at age 55 of a life annuity of $1 payable at age 62 and contingent upon survival to age 62.

4. Calculation of the commuted value of the portion of the benefit allocated to the marriage

   (a) $(\$42,478.61)\ (.6962) = \$29,573.61$

   With respect to a non-vested benefit, the calculation of commuted value should be adjusted to reflect the probability of continued employment to attainment of full vesting.

APPENDIX C

Specimen Calculation of Ultimate Apportionment Factor

Utilizing the data from the example in Appendix A, if the court decided to defer division of the earned pension benefit until actual retirement and receipt of annuity payments, the portion attributable to the marriage would be determined as follows:

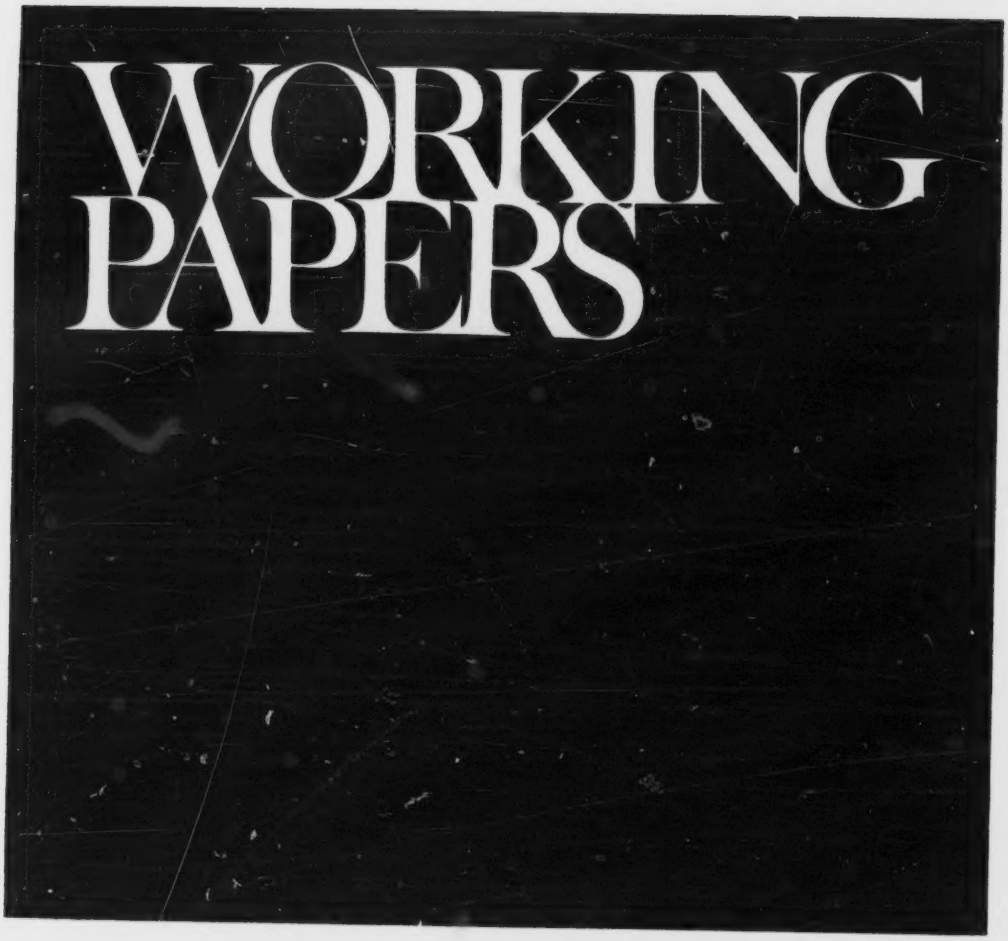
(1) Compute the ratio of marriage accrued to total period of accrual:

13.75 ÷ (Actual Retirement Date - January 1, 1961)
= apportionment factor

(2) Compute the portion of the actual benefit paid at retirement attributable to the period of marriage:

(actual benefit paid) (apportionment factor)

As in other cases, the amount of the annuity benefit attributable to the marriage to be awarded to the former spouse is a decision for the court.


WORKING
PAPERS

WORKING WOMEN, MARRIAGE, AND RETIREMENT

Prepared by: Shelley Lapkoff
with the help of Edith Fierst

President's Commission on
Pension Policy
August 1980

FOREWARD

The changing status of both women and men has significant implications under the public and private retirement systems in the United States. Social security and employee pension plans originally were designed to meet the needs of a society that was considerably different from the society we live in today. There is a need to reevaluate the present retirement structure's ability to meet current social and economic needs.

Three of the most significant changes have been the increased participation of women in the labor market, rising divorce rates, and the improved longevity of women relative to men. These changes imply that the traditional family structure--a breadwinning husband with a nonearning wife in a lifelong marriage--is now the exception rather than the rule for today's working population. Improvements in mortality rates have meant that the majority of women over age 65 are without spouses. These changes in family roles and marital status can have a direct bearing on retirement income.

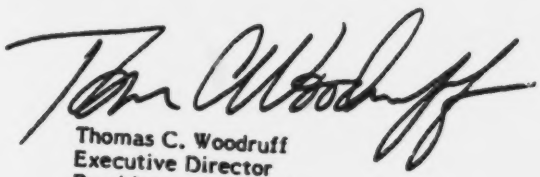
A number of studies have examined different aspects of the issues involved with marriage, retirement income and women. This working paper relies heavily on the work of these past studies. More studies have been directed to problems under social security than problems under employee retirement plans. Therefore, the first section of this paper on social security is specific about problem areas and more definitive about options for change. The second section on employee plans is more speculative and exploratory.

This working paper was used as background information for the Commission's interim recommendations issued in May. The Commission made several preliminary recommendations in this area:

- Earnings sharing approach to social security, contingent upon further study.
- Mandatory survivor protection in either employee pension plans or life insurance plans.
- Consideration of employee pension assets in divorce settlements.
- Earlier vesting standards in employee pension plans.
- Universal minimum employee pension plans, subject to further study.

We are thankful for valuable help and assistance from Virginia Reno at the National Commission of Social Security and Sara Kaltenborn of the Justice Department. We also appreciate the useful comments made by Duke Wilson.

The Commission hopes that this synthesis of other studies will help focus attention on these issues. As with our other working papers, we appreciate any comments or suggestions about how to improve this study for our final report.



Thomas C. Woodruff
Executive Director
President's Commission
on Pension Policy

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EXECUTIVE SUMMARY

Over one-third of unmarried women over age 65 have incomes below the poverty line. Their poverty is in part the result of their status as workers and spouses of workers under two components of the retirement income system: social security and employee pensions.

Due to traditional child care responsibilities, most working women have interrupted work histories. Although labor force participation for all women has increased 34 percent since 1940, many women still leave the workforce to bear and raise children.

Social security and employee pensions generally contain provisions which reward long-service workers. This traditional aspect makes it difficult for those with intermittent work careers to accrue benefits. Under social security, worker benefits are based on average lifetime earnings. Those with brief periods of covered employment have low average lifetime earnings and therefore low benefits. Provisions which emphasize long service in employee pension plans can result in either a forfeiture or reduction in benefits for part-time employees or employees who move in and out of the labor force.

Most of the issues discussed in this paper also apply to men who are homeworkers or low earners in marriages. However, because the vast majority of people affected are women, the issues are dealt with in that context.

Women and the Social Security Program

When social security was established, most American women were full-time homemakers who depended on their husbands for financial support. However, since the 1930s, the role of women has changed dramatically. Today, most women are in paid

employment. In addition to this change in the economic role of women, the divorce rate has increased significantly over the past 40 years. Both of these developments have brought about a reexamination of the treatment of women under the social security program. While some of the current inequities and inadequacies of the system are remnants from the past, even fairly recent changes have failed to correct the disparate treatment that occurs under the existing system. While other problem areas exist, the paper focuses on three groups: widows, divorced spouses, and married women workers.

Widows are now entitled to social security benefits based on their deceased spouses' wage records. They may collect actuarially reduced benefits as early as age 60. Benefits are low to young widows because deceased spouses' earnings records receive inflation adjustment rather than wage adjustment after the workers' deaths and because many widows take early retirement awards. Another problem is that widows of two-earner couples may receive only one-half of the total family benefits, unlike survivors of one-earner couples who receive two-thirds of the total family benefits.

Most divorced women receive worker, rather than spouse, benefits. Their worker benefits may be low, however, because of years spent out of the labor force to raise children. For divorced women who do receive a spouse's benefit, that benefit is likely to be inadequate for a person maintaining a separate household. Further, a divorced spouse generally cannot receive a dependent's benefit unless the ex-spouse is collecting benefits.

Married women workers may feel unfairly treated because the current system is better suited for one-earner couples than for two-earner couples. Two-earner couples generally receive lower total benefits than one-earner couples whose Average Indexed Monthly Earnings (AIME) is the same as the total of the two-earners' AIMEs. Further, among two-earner couples with the same combined AIME, benefits can vary depending upon the proportion of the total AIME earned by each spouse.

Women and Employee Pensions

Many women, especially homeworkers, rely substantially on their husbands for financial support. While husbands are employed, wives share in the workers' wage. In retirement, spouses share in the workers' pension. When wives lose their husbands through death or divorce, they often lose income and their economic security.

There are several instances when widows do not receive continuing income from their husbands' pension plans. These instances can occur when the retiring husband does not elect to reduce his pension in order to provide continuing benefits to the wife after his death, when the husband dies before retirement, and in the event of divorce.

In recent years, divorced persons have received some compensation in divorce settlements from their ex-spouses' pension benefits that were accrued during marriage This is a new phenomenon and is largely dependent upon state laws and court practices. While some divorce courts have implemented this idea, legal and actuarial questions exist on the appropriate method of allocating the pension asset between the two spouses.

There exists a large disparity in the average amount of employee pension benefits between women and men workers. This disparity is largely due to: (1) women's lower labor force participation and the lower wages generally provided for women's work, (2) lower incidence of pension coverage in positions filled by women and (3) a variety of rules and employee pension plan provisions that work against benefit accruals for short-term or intermittent employment.

Private pension coverage has not expanded significantly for either men or women during the 1970s. Within the private sector, working men are about one-third more likely than working women to be covered by employee pension plans. The difference in pension coverage rates for men and women is explained largely by their different employment characteristics. Women are less likely to have union status, more likely to work part-time, more likely to be employed in small firms, and more likely to fill positions in low paying industries and occupations.

The Employee Retirement Income Security Act (ERISA), enacted in 1974, is expected to significantly improve the likelihood that workers, and especially women workers, receive benefits. Although ERISA provides minimum standards for employee pension plans that will increase the proportion of workers eligible for benefits, some plan provisions still exist which particularly affect women with career interruptions. Current ERISA provisions allow exclusion of employees with less than 1,000 hours of service per year from the plan, rules that in some instances permit employers to disregard a worker's employment before a break-in-service, participation requirements which exclude workers under age 25 from the benefit plan and forfeiture of benefit accrual to workers who resign with less than 10 years of service.

Other frequently used plan provisions also prove disadvantageous for low-service or low-wage earners. Two examples are benefit formulas that include backloading, which places a smaller weight for earlier years of employment and a greater weight to later service years, and social security integration provisions, which result in proportionately small employee pension benefits to low wage earners.

Further, the use of sex-distinct mortality tables affects the benefits received by women. Under defined contribution plans, sex-distinct mortality tables result in either lower monthly benefits or higher contribution rates for women than men because, on average, women at age 65 are expected to live approximately four years longer than men.

Conclusion

The retirement income systems have been challenged for not providing adequate income to many elderly women and for inequitably treating women in families and as workers. A variety of reforms to social security have been suggested which would correct problem areas. This paper discusses proposals for earnings sharing, a double decker system, inheritance of earnings credits, homemaker credits and child care

drop-out years. Proposals to change employee pension plans include options to increase survivor protection, earnings sharing of pensions for divorced spouses and changes in employee pension plan provisions to provide commensurate pension benefits to short-service and low-wage workers or those who have interrupted careers or partial attachment to the labor force.

These proposals for social security and employee pension plans recognize a variety of family structures. Today most women work, most women outlive their husbands, divorce rates are high, and the modern marriage is viewed as an equal partnership with shared responsibilities. These changes in behavior and values imply a need for changes in the retirement income systems if original goals of the systems are to be met.

INTRODUCTION

Investigation of the financial problems of the aged show that an alarmingly high proportion of elderly poor are women, either single, divorced, or widowed. Roughly three-fourths of aged units with incomes below the poverty line are unmarried women (see figure 1). These elderly poor represent over one-third of all aged widows and divorced women. As their age increases, even a higher proportion of women, 42 percent over age 72, live in poverty.[1/]

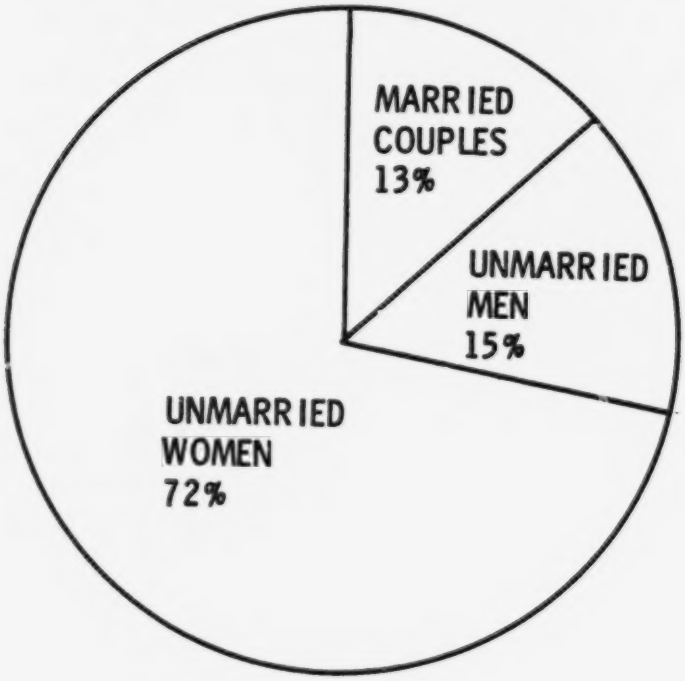
Several factors contribute to the hardships many women face in old age or upon losing their husbands through death or divorce. The central vehicles for providing financial security, social security and employee pensions, imperfectly assure women's security when they are no longer working or no longer married. For the most part, these systems link retirement income to one's previous work history and in some cases to current or prior marital status. Traditionally women have been disadvantaged in the labor market. Bearing and raising children make it difficult for women to establish themselves in the labor market where a continuous work pattern generally produces higher wages and an increased likelihood of gaining entitlement to retirement benefits. Historically women earn less than men and confront a variety of obstacles in advancing to high paying jobs. Low wages and short work careers in the labor force normally translate directly into low retirement benefits in old age. In many cases, retirement income systems drastically reduce or discontinue income to the family unit when the husband or father dies.

In addition, the longevity of women compared with that of men contributes to the hardships of older women. Currently there are 69 men for every 100 women in the population age 65 and over.[2/] This has occurred primarily because of women's longer life expectancy: 77 years at birth compared to 69 years for men.[3/] This disparity in

Figure 1

WHO ARE THE ELDERLY POOR ?

The distribution of aged units 1/ with incomes below the poverty line, 2/ by marital status and sex, 1976



1/ MARRIED COUPLES ARE COUNTED AS ONE UNIT.
2/ FOR 1976 THE POVERTY LINE FOR THOSE AGE 65 OR OLDER WAS $3445 FOR MARRIED COUPLES AND $2730 FOR SINGLE PERSONS.

Source: U. S. Department of Health, Education, and Welfare, Social Security and the Changing Roles of Men and Women, 1979

life expectancies is not peculiar to the United States and exists in every other major industrial country.[4] What does this imply for women? With the tendency for women to marry older men, married women can expect to be widows in old age. Of women reaching age 65, seven out of ten are or will be widows.[5] Because the average length of widowhood is 18 years for those women who actually become widows,[6] assets from life insurance or retirement savings are likely to dwindle. Women financially unprepared to live without their husbands often find economic hardship in old age. Similarly, divorced women who rely on their former husbands for financial support may experience hardships when the ex-spouse dies.

As more women enter the labor market and remain for longer periods of time, income security for aged women may improve with the next generation. They would then become entitled to retirement income based on their own earnings. While women's participation in the labor market has increased, there are still interruptions in women's careers because of childbearing and child care. The economic problems facing many women in retirement are not likely to disappear if their work careers continue to be disrupted and current pension systems remain unchanged.

This paper discusses the issues related to women's income security summarized above. Many issues analyzed here also are problems for men who are spouses and homemakers or are financially dependent on their wives. However, their numbers are small. Of all men not in the labor force, only 2 percent as compared to 75 percent of women gave home responsibilities as the reason for not working.[7] In social security only one-half of 1 percent of men in 1978 claimed benefits based on their wives' earnings compared with 59 percent of women.[8] Therefore, the problems are formulated as women's with the discussion centering on women as the disadvantaged group.

This paper separately analyzes the two major retirement income systems, social security and employee pensions. The analysis provides a brief historical review and

identifies a variety of problems and issues that confront women. Where appropriate, different options for solving identified problems are presented, in other areas, directions for change are suggested. In presenting the various options, the diversity of viewpoints and arguments that bear on the issues are recognized.

Social security is a much studied and widely debated income maintenance program. A number of studies have addressed the treatment of women under social security. These studies have combined much data, sponsored a variety of analyses, and formulated a number of recommendations for reform. These recommendations are reviewed and presented as options for change in the next section.

The section on employee pensions covers a variety of issues confronting working women, widows, and divorced women. These problems have been less well studied than social security problems, in part because of the lack of extensive and complete data. While the problems can be identified, their magnitude cannot. Nor can the economic and social consequences of possible changes to employer pension systems be fully assessed. Some possible directions for change are presented, but a full assessment must await further study and research.

I. SOCIAL SECURITY

Historical Background

Social security was designed at a time when most American women were lifelong homemakers who depended upon their husbands for support. At that time, it seemed reasonable that retirement income payable to women through social security should be based on their status as dependents. Originally, social security provided only retirement benefits for eligible workers in industry and commerce at age 65, but in 1939 the system was changed to provide for dependent's benefits for wives and widows. The 1939 amendments entitled wives of retired workers to spouse benefits equal to 50 percent of their husbands' benefits and entitled widows to benefits based on their deceased husbands' benefits. No provisions were made for divorced wives.

The originators of social security regarded the wives' benefit as a minimum benefit to the homemaker. Its importance was expected to decrease as more wives became entitled to worker benefits. In 1939, the wives' benefit was an expedient means of increasing payments to the retired population group that needed it most--married couples--without significantly increasing long range costs.

Spouse and survivor benefits have always been subject to the dual entitlement rule. This prevents an individual from receiving a spouse benefit if she or he is entitled to a worker's benefit equal to or greater than the spouse's benefit. If the spouse's benefit is larger than the worker's benefit, the person receives an addition to the worker's benefit so that the total is equal to the spouse benefit. In effect, the individual receives the higher of the two benefits.

Many gender-based distinctions were included in the social security law which discriminated against men. The most notable was that husbands could not become entitled to benefits based on their wives' earnings. After 1950, men could receive

husbands' or widowers' benefits, but had to prove their financial dependence on the wife, and the wife had to meet a "recency of work" test. In 1977, the Supreme Court declared these requirements unconstitutional. This allowed husbands who retired from jobs not covered by social security to receive spouse's benefits if their wives received social security workers' benefits. To prevent this, the Congress passed legislation that offset income from a spouse's benefit by pension income earned through noncovered employment. Today nine gender-based distinctions remain in the law (Appendix A has a complete description of each).

Current Problems

Today the social security system in some respects no longer serves the society it was designed for 40 years ago. The role of women and family structures have changed dramatically since the 1930s. Now most women work for pay, although their work patterns vary. Some women will have lifelong careers in the paid labor force, others will temporarily leave the labor force to raise children and others will be lifelong homeworkers. In addition, the divorce rate has increased dramatically since the 1930s. Today, the probability is about one in three that a new marriage will end in divorce.[9/]

Because of the change in family lifestyles, the Social Security Administration (SSA) recently reviewed social security's treatment of spouses. In its comprehensive report, an excerpt of which appears in Appendix B, problems under the current system are well documented. Traditionally, the social security system is judged on two criteria: the ability to provide adequate income to workers or their survivors when earnings are lost due to retirement, disability, or death; and the ability to provide income equitably based on the worker's past earnings and contributions to the system. In many instances these two criteria are in conflict. The spouse benefit with the dual entitlement rule was enacted on adequacy grounds. While it clearly resulted in inequities between single persons and married couples, it was a minimum benefit for

wives living with their retired husbands and for widows. Today, the spouse benefit is inadequate for many women because of changes in lifestyles and work patterns and their increased longevity. At the same time, increased participation of women in the labor market accentuates inequities that have always existed with the spouse's benefit.

While the report, widely known as the HEW report, discusses a number of groups who are ill-served by the spouse's benefit, this paper focuses on old-age benefits for three groups: widows, divorced people and married women workers.

Widows. Widowed people, comprising about two-thirds of elderly poor units, are the largest group for whom old age income is inadequate.[10/] Survivors are entitled to receive social security benefits based on their deceased spouses' wage records in lieu of their own wage records. While in some instances this provides an adequate income, in three cases it may not.

First, if the spouse dies several years before the wife reaches retirement age, she will receive survivor benefits computed on an outdated earnings base. The deceased spouse's earnings record is adjusted by increases in wages up to the time of his death, and then adjusted by the inflation rate from the time of death to the survivor's retirement. All other beneficiaries have their entire earnings record adjusted by wage increases. Except for recent years, wages normally increase faster than prices. As a result, a widow's benefit is related to the standard of living at the time of her husband's death, rather than the standard of living at the time she begins receiving benefits.

Second, widows' monthly benefits are permitted on a reduced basis as early as age 60. At age 60, the benefit is reduced to 71.5 percent of its orignal value. It appears that most young widows do, in fact, take early retirement benefits.[11/]

Third, when the average income of the two families is the same, survivors of one-earner couples receive greater benefits than survivors of two-earner couples. As

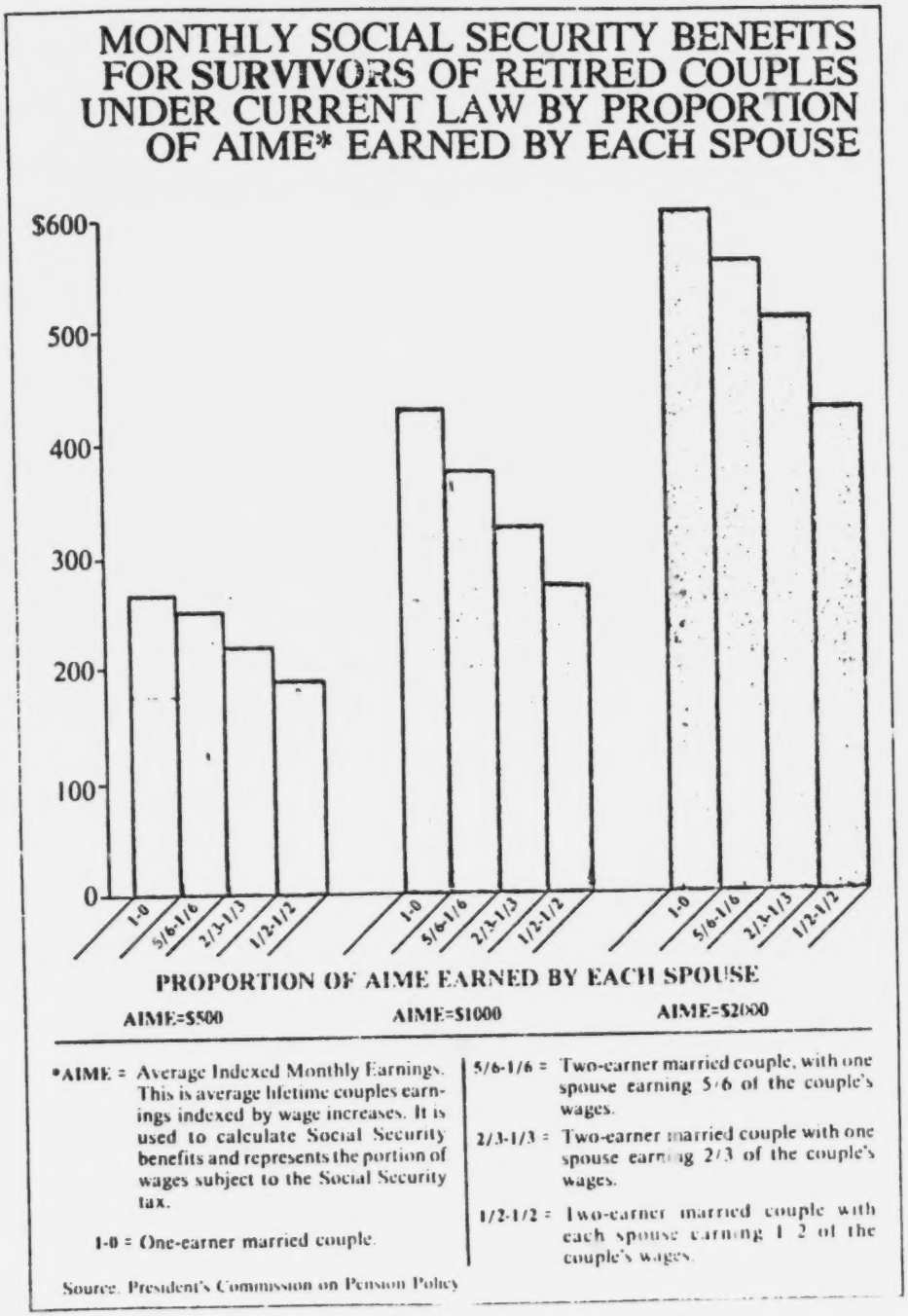
illustrated in figure 2, two-thirds of the couple's social security benefits continue to the survivor of a one-earner couple, while only one-half of the couple's social security benefits continue to the survivor of a couple where each spouse earned equal benefits. This is not only inequitable, but it can create a financial hardship for the survivor of a two-earner couple because generally a surviving spouse needs more than half of a couple's income to maintain a similar standard of living.

For very high income couples, or more precisely those couples with at least one partner who earned at or above the taxable wage base, all survivors receive the same benefit. All such survivors receive the maximum worker's benefit under social security, regardless of the portion of total wages earned by each spouse or the amount of family income earned above the maximum. While the benefits are equal among survivors, an inequity exists in the sense that the two-earner couple pays substantially more social security taxes than the one-earner couple.

Divorced Women. Changes have been made to the social security system in response to rising divorce rates. In 1965, the spouse's benefit (equal to 50 percent of the ex-husband's benefit) was provided to divorced women whose marriages lasted for 20 or more years. In 1977, the 20-year requirement was reduced to 10.

However, the changes still do not adequately deal with divorced spouses because most divorced people receive benefits based on their own work histories. About 85 percent of divorced women that were old-age beneficiaries in 1976 received a worker's benefit.[12/] (This proportion may decrease now that the marriage tenure requirement was lowered.) While their benefits are on average greater than married women's worker benefits, their benefits are one-fourth lower than single women's benefits and one-third lower than men's benefits.[13/] The low benefits of divorced women are at least partly attributable to years spent out of the labor market to raise children while married. Because of the dual entitlement rule, these women receive no compensation for years as a homeworker.

Figure 2


MONTHLY SOCIAL SECURITY BENEFITS FOR SURVIVORS OF RETIRED COUPLES UNDER CURRENT LAW BY PROPORTION OF AIME* EARNED BY EACH SPOUSE
$600
500
400
300
200
100
0
1-0
5/6-1/6
2/3-1/3
1/2-1/2
PROPORTION OF AIME EARNED BY EACH SPOUSE
AIME=$500
AIME=$1000
AIME=$2000
*AIME = Average Indexed Monthly Earnings. This is average lifetime couples earnings indexed by wage increases. It is used to calculate Social Security benefits and represents the portion of wages subject to the Social Security tax.
1-0 = One-earner married couple.
5/6-1/6 = Two-earner married couple, with one spouse earning 5/6 of the couple's wages.
2/3-1/3 = Two-earner married couple with one spouse earning 2/3 of the couple's wages.
1/2-1/2 = Two-earner married couple with each spouse earning 1/2 of the couple's wages.
Source: President's Commission on Pension Policy

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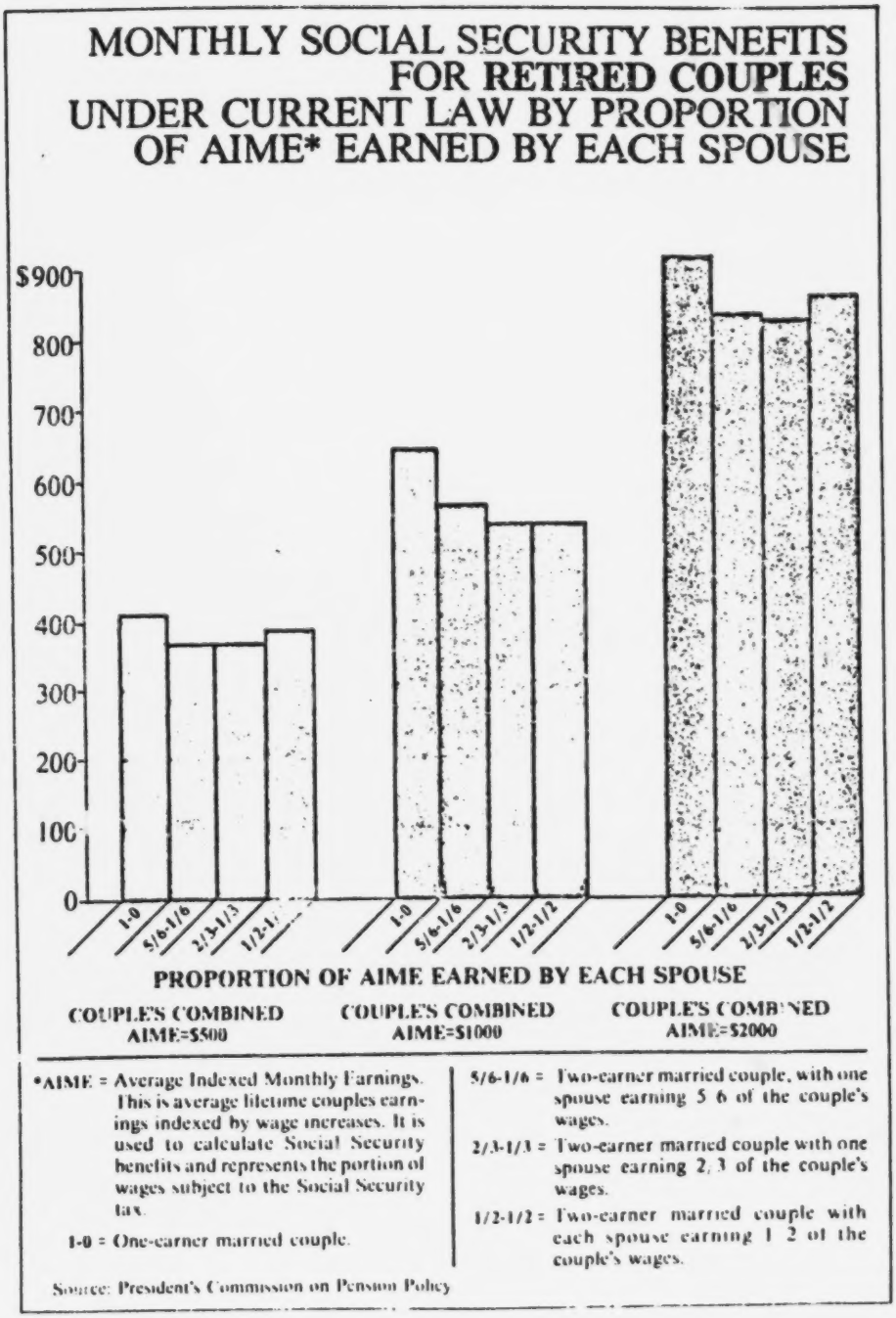
Problems also remain for divorced women who receive a spouse's benefit. They are entitled to 50 percent of the ex-spouse's primary benefit, but only after the former spouse retires or reaches the age where the earnings offset no longer applies. When the former spouse dies, the spouse's benefit generally doubles. While these provisions may be reasonable for married couples, they do not seem so for divorced couples where the spouses are financially independent. For example, unless the former wife was receiving alimony or other financial support from the ex-spouse, there is little logic for the spouse benefit to double when the ex-spouse dies. For a marriage that lasts only a fourth of the worker's career, there is little rationale for basing the spouse benefit on the former spouse's entire wage history.

Of greatest concern from both an adequacy and equity point of view, is the two-thirds and one-third distribution of benefits between the worker and the divorced spouse. The spouse's benefit, which was designed as a supplement to the larger primary benefit, may be inadequate for maintaining a separate household. For a lifelong marriage, the two-thirds and one-third distribution conflicts with the philosophy of marriage as an equal partnership.

Women Workers. As more women join the labor force, another inequity under the current system has become controversial. Because of the dual entitlement rule, a two-earner couple who pays the same amount of social security taxes as a one-earner couple receives lower family benefits.

As shown in figure 3, for couples with the same earnings (and below the maximum wage base), one-earner couples receive greater benefits than two-earner couples. This results from the fact that two-earner couples receive little or no supplemental family income from the spouse benefit. One-earner couples receive a spouse's benefit equal to 50 percent of the primary benefit based on the family's total average income, while two-earner couples may not receive any supplemental spouse's benefit or, in some cases, a spouse's benefit based only on the higher earning spouse's

Figure 3



*AIME = Average Indexed Monthly Earnings. This is average lifetime couples earnings indexed by wage increases. It is used to calculate Social Security benefits and represents the portion of wages subject to the Social Security tax.

1-0 = One-earner married couple.

5/6-1/6 = Two-earner married couple, with one spouse earning 5/6 of the couple's wages.

2/3-1/3 = Two-earner married couple with one spouse earning 2/3 of the couple's wages.

1/2-1/2 = Two-earner married couple with each spouse earning 1/2 of the couple's wages.

Source: President's Commission on Pension Policy

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benefit which reflects only part of the family's income. Another way to view this inequity is that the wife receives relatively little compensation for her earnings, since she would have received a spouse's benefit if she had not worked.

An exception to this situation occurs in comparing one and two-earner couples whose total earnings are substantially above the maximum wage base. All one-earner couples whose average lifetime earnings are above the taxable wage base receive the maximum worker's benefit plus a spouse's benefit. In contrast, all two-earner couples where both spouses earn above the taxable wage base receive two maximum worker's benefits. Two-earner couples with both spouses earning close to or above the taxable wage base receive greater benefits than the one-earner couple, but an inequity still occurs insofar as the one-earner couple receives a relatively higher benefit in proportion to taxes paid than does the two-earner couple.

Options for Change

Over its existence, various reforms have been suggested to correct inadequacies and inequities in the system. Most of the early proposals would have simply increased benefits to certain groups and also would have increased costs and created greater inequities.[14/] Reforms currently being debated, which are refined versions of those earlier proposals, include inheritance of credits, earnings sharing, the double decker system, drop-out years and homeworker credits.

Earnings sharing and the double decker system would require a major restructuring of the current system but would reward all covered work by either spouse. Drop-out years and homeworker credits would not change the major structure of the system and incorporate the expectation that many women will leave the labor force at least to have children. Women who work full careers would not benefit from these latter proposals. Inheritance of earnings credits is not a major restructuring of the system and applies only to widowed persons. The inheritance provision is typically

analyzed in conjunction with earnings sharing and double decker proposals, but is discussed separately because it could be implemented independently.

Inheritance of Earnings Credits. In order to provide greater social security benefits to widowed persons, over one-third of whom have incomes below the poverty threshold, it has been proposed that surviving spouses inherit the earnings credit of their deceased spouses. Unlike the current system, widow(er)s would be able to add their own social security earnings to their spouses' earnings (up to the individual social security taxable wage base for each year).

Typically, these proposals would provide greater or equal benefits to retired survivors of lifelong marriages. However, these proposals could provide lower benefits to widows of short marriages because they would inherit their deceased spouses' wage record only for those years of marriage.

Proposals differ in the amounts of credits that the surviving spouse should inherit. The 1979 Advisory Council recommends that survivors inherit 100 percent of the deceased spouses' earnings records. As a result, all survivors with the same family wages would receive the same benefits. Generally, retired survivors of lifelong marriages and survivors with some work history would receive benefits greater than or equal to those they now receive.

A proposal in the 1979 HEW report would enable survivors to inherit 80 percent of the total earnings of the couple, but not less than 100 percent of the earnings of the higher-earning spouse. Compared with the current system, this would provide the same benefits to survivors of one-earner retired couples and greater benefits to most survivors of two-earner retired couples. However, survivors of one-earner couples would still receive greater benefits than survivors of couples where each spouse earned half of the family income.

Another way to increase benefits to survivors which is not, strictly speaking, an inheritance feature, is to provide survivors with benefits equal to some proportion of the total family benefit. It is usually suggested that two-thirds of the couple's benefit continue to the survivor.

Earnings Sharing. The philosophy that marriage is a partnership, in which the contribution of each spouse is of equal importance and value, underlies the earnings sharing proposal. This proposal would address adequacy and equity problems concerning widows, divorced women and working women.

Earnings sharing applied to social security would credit each spouse with half the combined covered earnings of the couple. Each spouse would receive benefits based on his or her own social security record, which would include half the sum of the couple's combined earnings during marriage plus full credit for earnings when not married. The spouse's benefit would be replaced with a benefit based on one's own earnings record.

Although earnings sharing is a new idea for social security, the concept has been in use in community property states. Generally, community property states assume that income and assets obtained by either spouse during marriage are owned equally.

Representative Donald Fraser, U.S. Congress, introduced the first earnings sharing proposal in 1976. In response to the legislation, the Task Force on Sex Discrimination in the Department of Justice developed a comprehensive proposal.* From that early plan, HEW and the 1979 Advisory Council developed alternative proposals.**

Each proposal suggests various modifications to a pure earnings sharing approach. Proposals, for example, suggest some inheritance of credits or benefits to surviving spouses. Without this provision, survivors of lifelong marriages would

*The plan developed by the Justice Department was never adopted as a formal proposal and is not now advocated by the Department.

**The plan developed for the Advisory Council is illustrative; and was not endorsed by the majority of the Council members. The HEW proposal was included in the 1979 report, Social Security and the Changing Roles of Men and Women.

receive only half of the couple's social security income. It is generally accepted that to maintain an adequate standard of living one person needs more than half as much as two people living together. The inheritance provision together with earnings sharing generally would credit the survivor with two-thirds to four-fifths of the couple's combined benefit earned during marriage.

The proposals also suggest modification in the event of disability. The earnings sharing plan in the 1979 HEW report did not divide earnings credits in the event of a disability. The plan developed for the Advisory Council would not split earnings when only the high earner was entitled to benefits. The Justice Department plan included earnings sharing for disability purposes. When only one spouse is entitled to benefits, benefits based on both spouses' earnings would be calculated and the entitled spouse would receive two-thirds of the combined benefit amount. These modifications were suggested because complications arise when only one spouse is entitled to benefits and the spouses have different earnings.

The cost of earnings sharings proposals depends on the particular modifications adopted. It is estimated that the 1979 HEW plan would reduce long range annual costs by .06 percent of taxable payroll ($.5 billion in 1978)[15/] while the plan developed for the Social Security Advisory Council would increase annual costs by .35 percent of taxable payroll ($3.2 billion in 1978).[16/]

Earnings sharing would change the current system's redistribution of income within couples from the high earner to the low earner, so that benefits earned during marriage would be equally divided between the partners. This would have significant effect on divorced couples. Currently, the paid worker in a one-earner couple receives two-thirds of the total family benefit, leaving one-third to the dependent spouse.

In the event of divorce, the high earner in a couple, usually the husband, would receive lower benefits. Under earnings sharing, as shown in table 1, the one-earner in a 40-year marriage could suffer a 37 percent reduction in benefits, the one-earner in a

TABLE 1

PERCENT CHANGE FROM CURRENT LAW IN RETIREMENT BENEFITS FOR HIGHER EARNING DIVORCED SPOUSE AS A RESULT OF SHARING EARNINGS DURING MARRIAGE[1/]

AIME of High Earner	40-Year Marriage AIME of Low Earner of:		20-Year Marriage AIME of Low Earner of:		10-Year Marriage AIME of Low Earner of:	
	$500	$ 0	$500	$ 0	$500	$ 0
$ 500	0%	-29%	0%	-13%	0%	-4%
1,000	-19	-37	-8	-16	-3	-5
1,500[2/]	-19	-34	-6	- 9	-2	-3
2,000[2/]	-19	-29	-8	-11	-3	-4

SOURCE: U.S. Department of Health, Education and Welfare. Social Security and the Changing Roles of Men and Women, February 1979.

[1/] Assuming 40-year worklife, and 35-year computation period, as in the mature system. A marriage of 5 years or less would result in no change.

[2/] AIME and benefits at these levels are not possible for one worker reaching age 62 in 1980.

20-year marriage could suffer a 16 percent reduction in benefits and the one-earner in a 10-year marriage could suffer a 5 percent reduction in benefits. However, if the high-earning spouse remarries, the new couple's combined social security benefit may be equivalent to or greater than the benefits that the original couple would have received.

Income also would be redistributed between couples. Couples would receive benefits as if each spouse had the same Average Indexed Monthly Earnings (AIME). As shown in table 2, this results in one-earner couples receiving lower family benefits than under the current system. The spouse's benefit, which comprises one-third of the family benefit, would be eliminated, but benefits would be reduced by no more than 19 percent. Because of the progressivity of the benefit formula, when the sole earner's income is split between the spouses, each benefit is greater than half of the sole earner's benefit. Some two-earner couples with either very high or very low incomes would receive about 3 percent to 4 percent greater benefits under earnings sharing. There would be no change in benefits to couples in which both spouses earned equal income.

Proposals which would entitle survivors to inherit either credits or benefits from their spouses' records would provide greater or equal benefits to most, if not all, survivors of retired couples. Table 3 shows the percentage change in survivor benefits between the current system and the 1979 Advisory Council recommendation.

The redistributive effects of earnings sharing are criticized by some and supported by others. Objections to earnings sharing arise because some people would receive lower benefits than under the current system. In particular, most couples in which one partner earns more than 5/6 of the couple's joint income would be worse off. Higher earners of divorced couples would receive lower benefits if they do not remarry. On the other hand, earnings sharing is advocated because it provides equity between one-earner and two-earner couples, greater income to low earners or

TABLE 2

PERCENT CHANGE FROM CURRENT LAW IN TOTAL MONTHLY BENEFITS TO MARRIED COUPLES IN A LIFELONG MARRIAGE UNDER EARNINGS SHARING

AIME	Proportion of AIME Earned by Each Spouse			
	1 - 0	5/6 - 1/6	2/3 - 1/3	½ - ½
$ 250	-15%	-19%	-10%	0
$ 500	- 6	4	4	0
$ 750	-12	- 1	0	0
$1,000	-16	- 4	0	0
$1,250[1/]	-16	- 7	0	0
$1,500[1/]	-12	- 6	0	0
$1,750[1/]	- 8	- 1	0	0
$2,000[1/]	- 6	- 3	3	0

SOURCE: U.S. Department of Health, Education and Welfare. Social Security and the Changing Roles of Men and Women, February 1979.

[1/] AIME and benefits at these levels are not possible for one worker reaching age 62 in 1980.

TABLE 3

PERCENT CHANGE FROM CURRENT LAW IN MONTHLY BENEFITS FOR AGED SURVIVORS OF LIFELONG MARRIAGES UNDER THE 1979 ADVISORY COUNCIL ON SOCIAL SECURITY RECOMMENDATION[1/]

	Proportion of AIME Earned by Each Spouse			
AIME	1 - 0	5/6 - 1/6	2/3 - 1/3	½ - ½
$ 500	0%	11%	25%	42%
$1,000	0	14	33	59
$1,500[2/]	0	8	24	52
$2,000[2/]	0	9	20	41

SOURCE: U.S. Department of Health, Education and Welfare. Social Security Financing and Benefits: Reports of the 1979 Advisory Council on Social Security, 1979.

[1/] The Advisory Council recommendation would entitle the survivor to inherit 100% of the deceased spouse's wage record.

[2/] AIME and benefits at these levels are not possible for one worker reaching age 62 in 1980.

homeworkers from divorced marriages and, when combined with an inheritance provision, greater income to widowed persons.

Implementation of earnings sharing requires careful planning to avoid the creation of some anomalies or problems. The 1979 Social Security Advisory Council stated in its report:[17/]

> "The majority of the Council finds that some system for the sharing of earnings is the most promising approach to these issues. (However) because of the complexity and far-reaching implications of the changes that would occur under earnings sharing, and because some problems remain in all specific plans the council has seen, the majority of the advisory council is not prepared to endorse a full-scale earnings-sharing plan at this time."

Complications arise when one spouse becomes eligible for benefits before the other spouse does and the spouses have different actual earnings.* In these cases, the one benefit may not accurately replace earnings lost due to disability or retirement. Pure earnings sharing requires that the social security benefits will be based on half of the couple's combined earnings. If the high earner in a couple becomes eligible for benefits before the lower earner becomes eligible, the benefits will not adequately replace lost earnings because half of the couple's combined earnings is less than the person's own earnings. For the low earner in a couple, the opposite is true: half of the couple's combined earnings is greater than the person's own earnings and therefore benefits may be excessive.

There are several ways to deal with this problem. The plan in the HEW report splits earnings when one spouse reaches age 62. This would include the anomaly described above. The Justice Department's plan would base benefits on two-thirds of

*When only one spouse is eligible for retirement benefits, complications can arise under the current system for one-earner couples. If the earner retires but the spouse has not reached retirement age, the family receives only two-thirds of their total benefit. Also, if the nonpaid spouse reaches retirement eligibility first, she cannot receive any benefit until the earning spouse retires, dies, or exceeds the age limit on the earnings test.

the couple's combined earnings when only one spouse is entitled to benefits. This would be equivalent to what now occurs when, in a one-earner couple, only the earner is eligible for benefits. Another option which was discussed in the HEW report is to split wage records only when both spouses are entitled to old-age benefits or at divorce. When only one spouse of a married couple retires, benefits would be based on his or her own wages, which is similar to the current system. When the second spouse retires, benefits would be recomputed based on split earnings. While this would provide benefits that accurately replace lost earnings, it would create a divorce incentive when only the low earner is entitled to old age benefits.* The plan developed for the Advisory Council is more generous than the other proposals. It would entitle the high earner who retires or becomes disabled to a benefit based on his own wages. When the low earner retires or becomes disabled first, benefits would be based on split earnings.

Similar to the current system, complications arise because social security is not universal. When one spouse works in covered employment and the other spouse works in noncovered employment, the couple's total benefits from noncovered employment and social security may be excessive because the covered earnings would be split equally between both partners. Thus, the progressivity of social security benefits would give the couple a relatively high benefit originally intended only for low-income families.

In addition, earnings sharing could have an awkward effect on employee pensions that are integrated with social security using direct offset formulas. Under such plans, the employer decreases the worker's pension by some portion (generally 50 percent) of the worker's social security benefit. If earnings sharing were in effect, the higher earner in a marriage would receive a lower social security benefit than under

*The low earner would receive a higher benefit when earnings are shared. Until the high-earning spouse is retired, earnings sharing would be possible only upon divorce.

the current system and, therefore, would receive a larger employee pension. The opposite would be true for the lower earner in a marriage: the social security benefit becomes larger under earnings sharing and the employee pension would be reduced accordingly. Some employers would have to modify their pension plans, and the IRS rules on qualifying integrated pension plans would probably need to change.

The Commission recommended in its interim report that social security should employ an earnings sharing approach with an inheritance provision for survivors. However, the Commission recognizes that there are several problems in implementing such a system and will continue to study such proposals.

Double Decker System. A double decker social security system, first suggested in the 1930s, is receiving renewed attention because it addresses some of the grievances concerning the treatment of spouses under the current system. It would eliminate the need for a spouse's benefit and would entitle homeworkers to benefits in their own right. This system would be used in conjunction with earnings sharing and inheritance of a deceased spouse's credits by the surviving spouse. Without these two provisions, a double decker system would not address the needs of divorced or widowed people.

A double decker system would establish two tiers of social security benefits. The first tier benefit would be a minimum benefit paid to all aged and disabled persons, whether or not they had covered employment. The second tier benefit would be directly proportional to covered earnings.

Canada, Sweden, Finland and the United Kingdom, among other countries, have double decker social security systems. Only the Canadian system provides for earnings sharing between spouses, and then only at divorce. In most countries, surviving wives may receive a portion of their deceased spouses' earnings-related benefit. However, in some cases, these benefits would be a substitute for the survivors' own earnings-related benefits.

The redistributive effect between couples of an earnings sharing feature would be eliminated under a double decker system, because the splitting of the wage record between the two spouses does not affect their total family benefit. Under a double decker system earnings sharing would apply only to the second tier benefit, which is a constant percentage of wages. If, for example, the second tier benefit equaled 30 percent of earnings, then, under earnings sharing, each spouse would receive 15 percent of the couple's combined earnings. The only redistributive effect occurs between the two spouses, and not between couples. In contrast, if earnings sharing were applied under the current system, some couples would receive lower benefits than they would without the earnings sharing feature, while a few couples would receive greater benefits.

In the past, the double decker proposals were rejected because inequities and excessive benefits could result. It was argued that it would be unfair to provide the first tier of benefits to those employed persons not covered and, therefore, not taxed by social security. Most workers in noncovered paid employment are covered by a generous employee pension plan. An additional first tier benefit from social security would be unnecessary and excessive in these cases.

The second obstacle to adoption of a double decker system has been the difficulty in setting benefits for the first tier and setting percentages for calculating the second tier benefit. Opponents argue that the level of first tier benefits would be determined on the basis of political considerations. Some opponents fear that the first tier benefit would expand too greatly and thus weaken the contributory nature of the system, while other opponents fear that the first tier benefit would either be set too low or evolve into a means-tested benefit when program costs are considered too high.

A double decker system would be a significant departure from the current system because it explicitly separates the welfare aspect from the contributory aspect and changes the distribution of benefits. The distribution, of course, depends upon the levels set for the first and second tier benefits.

The 1979 HEW report analyzed a comprehensive double decker plan designed to keep long-range costs roughly equivalent to those under the current system. Under this cost constraint, there is a variety of possible combinations for the levels of the first and second tier. For illustrative purposes, $122 per month, the present minimum benefit, was chosen for the first tier benefit.* Second tier benefits were set at 30 percent of the person's AIME in covered earnings. Surviving spouses would inherit enough credits to receive 80 percent of the earnings credits of the couple, or, if larger, 100 percent of the higher earner's credits. Earnings sharing would be applied only in the event of divorce because it would make no practical difference in benefits for married couples.

Table 4 shows that in the plan presented in the HEW report, some would receive greater while others would received lower benefits than under the current system. The most dramatic difference would occur for very low income couples. Depending on the proportion of income earned by each spouse, benefits would increase between 6 percent and 31 percent for couples with a combined AIME of $250 or less. Other couples who normally receive a spouse's benefit under present law would receive lower benefits under a double decker system. When a one-earner couple has an AIME greater than $420, the homeworker's first tier benefit would be lower than the spouse's benefit under current law. Benefit reductions from present law for one-earner couples would be, at most, 17 percent.

*While the first tier represents the social welfare aspect of the program, other welfare payments would still be necessary for some persons when the first tier benefit is so low.

TABLE 4

PERCENTAGE CHANGE FROM CURRENT LAW IN TOTAL MONTHLY BENEFITS TO MARRIED COUPLES IN A LIFELONG MARRIAGE UNDER A DOUBLE DECKER SYSTEM

AIME	Proportion of AIME Earned by Each Spouse			
	1-0	5/6-1/6	2/3-1/3	½-½
$ 250	11%	6%	18%	31%
500	-3	7	7	3
750	-11	0	1	1
1,000	-16	-4	0	0
1,250[1/]	-17	-7	-1	-1
1,500[1/]	-13	-7	-1	-1
1,750[1/]	-10	-3	-2	-2
2,000[1/]	-8	0	1	-2

SOURCE: U.S. Department of Health, Education and Welfare. Social Security and the Changing Roles of Men and Women, February 1979.

[1/] AIME and benefits at these levels are not possible for one worker reaching age 62 in 1980.

TABLE 5

PERCENTAGE CHANGE FROM CURRENT LAW IN MONTHLY BENEFITS FOR AGED SURVIVORS IN A LIFELONG MARRIAGE UNDER DOUBLE DECKER SYSTEM

AIME	Proportion of AIME Earned by Each Spouse			
	1 - 0	5/6 - 1/6	2/3 - 1/3	½ - ½
$ 250	3%	3%	22%	49%
500	0	1	11	26
750	- 1	- 1	11	30
1,000	- 2	- 2	11	33
1,250[1/]	0	- 2	12	35
1,500[1/]	7	0	12	37
1,750[1/]	13	6	12	38
2,000[1/]	18	11	18	39

SOURCE: U.S. Department of Health, Education and Welfare. Social Security and the Changing Roles of Men and Women, February 1979.

[1/] AIME and benefits at these levels are not possible for one worker reaching age 62 in 1980.

When combined with earnings sharing, redistribution of income would occur between members of a couple.* Although the combined couple's benefit remains constant in a double decker system, earnings sharing at divorce would result in the lower earner during the marriage receiving greater benefits and the higher earner receiving smaller benefits.

The proposed inheritance of credits by surviving spouses would provide most survivors greater benefits. As shown in table 5, some nonpaid surviving spouses of basically one-earner retired couples would receive slightly less income under this proposal. Survivors of two-earner couples where both partners earned equal income would receive one-third to one-half greater benefits than they do under the current system.

Drop-Out Years. Proposals have been made to drop years spent out of the work force caring for young children from the averaging period used to calculate benefits. Social security benefits are based on covered wages over one's working life. These wages are averaged over the period the worker reasonably could have worked in covered employment. Under current law, the averaging period is 35 years for persons reaching age 62 in 1991 and thereafter. Years spent out of the paid labor market or in jobs not covered by social security lower the average wage and, thus, benefits.

By dropping those years of low or zero earnings, average monthly earnings and, therefore, social security benefits would be increased for those who interrupt employment to bear and raise children. Child care drop-out years proposals, in general, are based on the premise that the job of caring for one's own young children is of sufficient importance and value to society at large that it should not reduce one's future retirement benefit.

*The plan in the HEW report recommended earnings sharing only upon divorce.

Several countries permit child care credits under social security. Swedish women who leave the labor force are credited with up to nine months of pension accruals for each child they bear. In France, pension accruals are provided for up to two years.

A drop-out years feature could limit the number of years allowed per person. Most proposals limit child care credits to those years when a child is preschool age--anywhere from one to seven years old--and limit the number of drop-out years allowed per person to from one to 20 years.

In addition, a proposal could limit applicability of drop-out years to parents with no or only minimal earnings, or could allow drop-out credits for any eligible year where earnings are lower than an individual's career average. In the former case, a parent would be worse off, in terms of future social security benefits, by earning a few dollars than by not working at all. This work disincentive would be avoided if no earnings limit applies, but costs would be higher than under the more restrictive approach.

A proposal also could limit eligibility to one parent--presumably the parent with the lower earnings or who suffers the greatest reduction in earnings--or could permit both parents to qualify for credits. Permitting drop-out years to both parents anticipates flexibility in the roles of mothers and fathers in that both parents could work part-time in order to raise young children. However, costs would be greater under this case than when only one parent is entitled to credits.

Supporters say that parents should not be penalized by receiving inadequate benefits from the social security system and that society at large should bear this cost. It is also argued that drop-out proposals specifically address the work patterns of many women today. The majority of women are attached to the labor force, but some may interrupt or reduce employment when children are young.

Studies indicate that drop-out credits would provide 35 percent of all women with benefits that are at least 5 percent higher than current system benefits.[18/] Divorced women are particularly likely to benefit from the child care drop-out years proposal. After divorce, most women are in the labor market, but at retirement, they receive inadequate benefits because of gaps in employment while married and rearing children.

On the other hand, drop-out proposals do not address the varied labor force participation patterns that have emerged in recent years. Unlike more comprehensive earnings sharing proposals, drop-out credits would not benefit women who work in paid employment most of their lives or women who never work in paid employment.

New equity problems would be raised for groups who do not qualify for drop-out credits. Parents who continue working full-time and make other child care arrangements would pay taxes that might not result in greater social security benefits at retirement. Adequacy questions also would arise if, as data indicate, low-income families with preschool age children are more likely to have both parents working.[19/]

A question also arises as to whether drop-out credits should be given for time spent outside the work force on other activities considered socially beneficial. For example, some might argue that people in volunteer work, who work for nonprofit institutions, who care for aged or disabled parents, who go to school or who are unemployed involuntarily should receive such credits.

Perhaps the greatest obstacle to adoption of a drop-out years proposal is cost. These proposals are expensive. Very limited plans were developed by the 1979 Social Security Advisory Council which restricted credits to one parent when earnings for eligible years were below $1,040. When two drop-out years were permitted per child, long range costs increased by .35 percent of taxable payroll ($3.2 billion in 1978).[20/] The cost of a drop-out years proposal could be offset if spouse's benefits were reduced or eliminated.

Homeworker Credits. Under the current social security system, spouse's benefits are an implicit though imperfect means of rewarding homeworkers. Spouse benefits are inadequate for persons who both work for pay and are homeworkers because they may receive no credit for their work at home.

Several proposals have suggested replacing the spouse's benefit with explicit homeworker credits. Under these proposals, credits earned from work at home would be added to credits earned from work in the market. All homeworkers would then acquire their own benefits independent of their spouse.

Homeworker credits are used in other countries. In the United Kingdom, West Germany and Japan, voluntary contributions to the social security system are permitted by homeworkers. In Japan, where the system provides benefits in excess of the value of contributions paid, 80 percent of the homeworkers participate.[21/]

One obstacle to providing homeworker credits is the difficulty in determining how much credit the homeworker should receive. Suggestions range from having the Secretary of HEW determine the value of homeworker services to using the median wage of all workers or all women workers. Homeworkers may feel that a uniform rate would not accurately reflect their service at home. People whose wages are higher when working in the paid labor market would still be disadvantaged for years spent as a homeworker.

Another obstacle is defining who qualifies for homeworker credits. Men as well as women would have to be considered. It would have to be determined whether married people would be entitled to credits and whether single or divorced people with children would qualify. Perhaps the only nonworking group excluded would be single people without children. Some persons may work only part time in order to maintain the household, yet they would receive no homeworker credit. Working couples could argue that they perform household services at the expense of their leisure time, yet they receive no additional credits.

Financing also presents obstacles to the adoption of such plans. Some proposals would require homeworkers to contribute to the social security system at the self-employment rate, which essentially treats work at home as covered employment. Other proposals would automatically provide homeworkers with social security credits, paid either by higher payroll taxes or by general revenues.

On the one hand, it can be argued that homeworkers should contribute taxes for their social security credits. Some argue that the current system subsidizes individuals who receive spouse's benefits without contributing taxes. While social security intentionally subsidizes low income people, many spouses who receive dependent's benefits are in high income families. Requiring homeworker taxes would eliminate some problems with part-time workers and couples who probably would not object if they were excluded from such an arrangement.

On the other hand, requiring homeworkers to pay for credits could cause financial hardship. If women leave the market to bear children, family income is relatively low because the wife's wages are absent and the family incurs additional expenses from childbirth. Mandatory social security taxes for the nonpaid spouse probably would be resented.

Voluntary contributions to social security would help determine who qualifies as a homeworker and what the value of their services are. Each person could determine her own status and the value of her home work. The major drawback of this arrangement is that low income people would probably not contribute and, thus, not receive additional benefits. These are the individuals originally targeted for spouse's benefits and perhaps the most in need of social security income in old age or when disabled.

II. EMPLOYEE PENSIONS

Historical Background

The first employee pension plans in the U.S. were established in the late 1800s. By 1930, many of the large industrial employers had implemented retirement plans that covered about 15 percent of private sector employees in commerce and industry.[22/] The purpose of these plans was to replace some income lost through retirement to long-service employees. Few of the early plans had deferred vesting provisions.

Because few women had long careers, it is unlikely that many received worker's benefits, but some women did receive benefits as widows of retired workers. In 1925, about one-fourth of the large industrial plans provided some benefit to survivors of retired workers. However, these benefits were not lifetime annuities. Most often, widows received reduced payments for one year or an amount equal to the remainder of money set aside in the participant's account. About one-third of the large industrial plans provided life insurance benefits to survivors of workers who died before retirement.[23/]

In the 1940s and 1950s, private pensions expanded in both coverage and benefits. One reason was the need to increase compensation to employees during World War II because of wage and price controls. Another reason was a series of legislative decisions that made pension plans subject to union bargaining. By 1950, 30 percent of employees in commerce and industry were covered by private pension plans.[24/]

Coverage for survivors has continued to expand in recent years. A 1971 Bureau of Labor Statistics (BLS) survey showed that in addition to group life insurance benefits, survivor benefit protection was automatic for about half of the workers in large private pension plans and 10 percent of the workers in plans covering less than

5,000 employees.[25/] Typically these plans provided benefits to survivors of workers who died before retirement, and almost all of the largest plans provided post-retirement survivor benefits. Typically, coverage was limited to long-service employees. For those who qualified, benefits were based on either a straight percentage of the worker's accrued benefit or a flat dollar amount. Usually the benefits were paid over the survivor's lifetime, although some plans discontinued benefits at age 62 or when the spouse remarried and benefits were reduced based on the survivor's age. In plans covering one out of seven employees, survivor benefits were only available to female spouses.

In addition to automatic survivor benefits, joint and survivor options were available in some employee plans. If the participant elected this option, the worker's pension was reduced but some portion of the benefit continued to the surviving spouse. It appears that few workers exercised this option. Participants may have been unwilling to receive lower benefits, may have been ignorant of the provision, or may have had a sufficient estate or insurance to leave to their survivors.

The enactment of ERISA in 1974 has several important implications for private sector survivor benefits, benefits for divorced spouses and worker benefits. ERISA requires a joint and survivor provision in most pension plans, strengthens the concept of a pension as a worker's property right and sets minimal standards for participation and entitlement of worker benefits. The issues related to these developments are discussed in the next section.

The largest public pension program, the federal Civil Service Retirement System, was established in 1920. Initially, no survivor benefits were available. Legislation in 1939 permitted a worker to provide a survivor annuity to any named beneficiary, in which case the worker's pension was actuarially reduced to reflect the beneficiary's age, sex and amount designated for the survivor annuity. In 1948, preretirement survivor benefits were extended to spouses of employees with at least

five years of service who died in active service. Originally, preretirement survivor benefits were limited to female spouses, but 1949 amendments extended benefits to dependent husbands, and in 1962 all survivors regardless of sex or dependency status were included.

Major changes in survivor benefits since 1939 have made CSR survivor benefits more comparable to those of social security. Today, preretirement survivor benefits generally are available to surviving spouses of employees with at least 18 months of covered service. Postretirement survivor benefits are available if the worker elects the joint and survivor option. If elected, the participant's pension is only slightly reduced to reflect the expected benefits to the surviving spouse. Divorced spouses are ineligible to receive benefits. Currently, most married participants elect the joint and survivor option. Over 95 percent of married men employees and 60 percent of married women employees entering retirement elect survivor protection for their spouses.[26/]

Current Problems

Men are twice as likely as women to receive employee pensions, and when women do receive pensions they are typically one-half the amount of men's, as seen in table 6. These statistics reflect the fact that pensions traditionally have been provided only to long service workers and occasionally to their families when the worker died. In the past 40 years, the majority of women had only minimal attachment to the labor force. Therefore, it is not surprising that few older women now receive employee pensions.

In the past, survivor benefits to spouses of retired workers were available in only some plans and employees typically had to choose such coverage. Either few workers chose the joint and survivor provision or plans did not make this option available. Women who divorced generally lost any opportunity to receive survivor benefits or any portion of their former spouses' pensions

TABLE 6

EMPLOYEE PENSIONS FOR PEOPLE AGE 65 AND OLDER, 1976

	Percent Receiving Pension[1/]	Median Annual Pension Benefit
WOMEN[2/]		
All	18%	
Public Employer	9%	$2,750
Private Employer	9	1,340
MEN		
All	38%	
Public Employer	13	4,830
Private Employer	25	2,060

SOURCE: U.S. Department of Health, Education and Welfare, Social Security and the Changing Roles of Men and Women, February 1979.

1/ Percentage of total population age 65 and older.

2/ Women receiving survivor benefits from employee pensions are included with women receiving pensions based on their own work.

The outlook for the future is much brighter. The majority of women now work and they appear to have more stable attachment to the labor force. As a result, many more young women are expected to earn pension benefits. Many more survivors are likely to receive retirement income protection because plans are now required to provide a joint and survivor option and some plans mandatorily provide such protection to married employees. Recently, pensions have been considered in some divorce settlements and some divorced women are receiving part of their former spouses' pensions, either at the time of divorce or at retirement.

While many more women are expected to receive employee pensions in the future, some obstacles still remain. The following discussion focuses on problems facing widows, divorced people and women workers.

Widows. Testimony to the Commission indicates that some, and perhaps many, widows are left without survivor benefit protection from their deceased husbands' pension plans. On average, women live seven years longer than men and typically women marry older men. Thus, most women can expect to be widows in old age. In some cases, these women assumed that some portion of the employee pension would be provided to them as widows, and then are strained financially when they do not qualify for benefits.

The new pension reform law did much to strengthen survivor benefit provisions. Before 1976, survivor benefit protection was not required in pension plans. Now, ERISA requires that most pension plans provide a joint and survivor option to workers when they retire. Generally, the joint and survivor provision actuarially reduces a worker's pension and provides 50 percent of the worker's benefit to the surviving spouse, but plans may reduce a worker's pension by less than the full actuarial amount and/or provide more than 50 percent of the benefit to the survivor. ERISA requires that at retirement, the joint and survivor option is automatically provided unless the employee specifically does not elect the provision.

There are six circumstances where plans are not required to pay survivor benefits, although it should be noted that some plans provide survivor protection in these instances even though they are not required by law to do so. Those circumstances include the following:

(1) When an employee reaches retirement, he may choose not to take the joint and survivor option because it reduces the worker's pension. The law does not require that the spouse be consulted or informed of this decision.

(2) Plans may require that a spouse be married to the worker both at the time of retirement and at the worker's death in order to qualify for survivor benefits. This means that divorced spouses and spouses from marriages occuring after the worker retires would not qualify for benefits.

(3) The joint and survivor benefit need not be available to employees before they reach the early retirement age or 10 years before the plan's normal retirement age, whichever is later. Therefore, if the worker dies in active employment before this age, the surviving spouse would not qualify for benefits.

(4) A joint and survivor benefit need not be automatic before employees reach retirement; employees must specifically elect this option. Therefore, if the worker dies after reaching the early retirement age but before actually retiring and has not elected the joint and survivor option, the spouse will not receive any retirement benefits.

(5) Plans may disregard an employee's preretirement election of the joint and survivor annuity if the employee dies from a nonaccidental death within two years of the election.

(6) If a worker leaves a company with a vested benefit, the joint and survivor benefit is not available until the person applies for retirement benefits. Given that deferred vested benefits typically are not available until the normal retirement age, people who die before this age have no opportunity to provide survivor protection to their spouses through the retirement plan.

Divorced Women. Divorced homeworkers or low earning spouses who have not accumulated credits toward retirement face potentially serious problems in old age. The recent increase in divorce rates, the new pension reform law, and changing attitudes towards marriage have focused attention on divorce settlements that award a person a share in their former spouse's pension. While some settlements consider

pensions acquired during marriage part of the couple's property and, therefore, subject to division, other settlements ignore pensions. Even when courts divide pension assets, the settlement does not necessarily result in retirement income for the nonemployee spouse.

The treatment of pensions in divorce settlements varies greatly by state. The eight community property states view marriage as an equal partnership and, upon divorce, divide property acquired during the marriage equally between the spouses. Seven additional states have adopted the Uniform Dissolution of Marriage Act that also equally divides property acquired during marriage. However, some states do not consider future entitlement to a pension as the employee's property, especially if the pension is not vested. Therefore, pension assets are not valued in some divorce settlements, even in states where marriage is viewed as an equal partnership. The 12 common law states equally divide only jointly held assets, but some allow the court to "equitably" distribute property at divorce, which may or may not include pension assets. The other 23 states generally give the courts discretion to divide a couple's assets in a fair manner.

Recently, the courts have begun to grapple with the treatment of pensions in divorce settlements. However, there are several unresolved issues in allocating pension entitlement between the divorced spouses. These issues will be discussed in the section on options for change.

Women Workers. The difference between coverage and benefit levels between men and women workers stems from three sources: women's lower labor force participation and the lower wage typically provided for women's work, lower pension coverage in jobs filled by women, and various rules and provisions of employee retirement systems. Only the latter two sources are within the purview of the Commission. However, women's labor market position is first briefly discussed for background purposes.

First, the disadvantages women experience in the labor market have direct implications for their income in retirement. Women's employment in nonunionized, low-paying occupations results in low rates of pension coverage, their shorter and interrupted work-lives result in a lower probability of entitlement to benefits when they are covered by pension plans and their lower wages and shorter job tenure result in lower benefits when they do receive pensions.

Although some women's wages have improved as career opportunities have opened up to them, the median wage of women working full time is about 60 percent of men's. Gains by some women have been offset by the recent influx of unskilled and inexperienced women in the labor market. Women's labor force participation increased from 17 percent in 1940 to 51 percent in 1979. Today, women comprise 42 percent of the labor force. Less than 13 percent of women workers in 1972 and 16 percent in 1978 had union membership, which is usually associated with high wages.[27/] While this gain was substantial in view of declining union memberships among men, it does not approach the male unionized rate of 30 percent.[28/]

In 1970, women's average expected work life was 23 years compared to 40 years for men, in part because women usually have interruptions in their employment.[29/] Longitudinal surveys and cross sectional data (table 2 in Appendix B) indicate that many women leave the paid labor force for homemaking responsibilities, including bearing and raising children. Women who work for pay prior to marriage or the birth of their first child tend to reenter the market when their child care activities are finished.[30/] However, this interruption in paid employment means that they will not, on average, "catch up" to men in acquiring work experience or tenure.

Second, women workers are more likely to work part-time, less likely to have union status, more likely to be employed in small firms and more often fill positions in the low paid industries and occupations--characteristics associated with low pension coverage. Separately, these characteristics would not completely explain the

difference in pension coverage between the sexes, but together, these factors account for a large portion of the difference in women's and men's coverage rates. For example, as table 7 shows, the pension coverage of relatively advantaged women workers--union members in large firms--is nearly comparable to that of similarly situated males in the same industry. However, less than 10 percent of female workers are in this group.

According to a 1972 survey[31/] and preliminary results presented to the Commission from a 1979 survey,[32/] private pension coverage has not expanded significantly for either men or women during the 1970s. In addition, men continue to be covered by pension plans more frequently than women. In the private sector in 1979, 50 percent of men compared with 31 percent of women were covered. In the public sector, 83 percent of the men compared with 70 percent of the women were covered.[33/]

Most women will benefit from private pensions if pension coverage expands to groups who normally have low coverage--those in small firms and in nonunionized low-paid industries and occupations--or if a greater number of women are employed in large unionized firms, a change requiring a radical shift in women's typical employment pattern.

Third, some permissible pension plan rules and provisions adversely affect workers with characteristics typical of women workers. ERISA, enacted in 1974, set many new minimum standards for pension plan provisions dealing with coverage and benefits to worker. Pension plans may, of course, be more generous than the law requires. While ERISA standards help women they still permit provisions that will continue to restrict pension entitlements and benefits for more women than for men workers. Seven common plan provisions, including five minimum standards specified under ERISA, are discussed below. The ERISA standards are discussed in more detail in Appendix C.

TABLE 7

COVERAGE RATES BY INDUSTRY AND SEX, BY SELECTED EMPLOYMENT CHARACTERISTICS: PRIVATE WAGE AND SALARY WORKERS

Industry	Employees Covered By Union Contract and in Firms With 500 + Employees	
	Men	Women
Manufacturing	90%	80%
Transportation, Communication, Utilities	78	75
Trade	73	67
Service	65	60

SOURCE: Testimony before the Commission by Gayle Thompson Rogers on preliminary results from the 1979 Survey of Pension Plan Coverage, supplement to the May Current Population Survey.

First, under the "the rule of parity", pre-break years of service under a plan may be forfeited by a nonvested employee if the employee returns to the employer after an absence which equaled or exceeded the length of pre-break service. It is not known how many women who leave paid employment to raise children return to the same employer, but those who do may forfeit pension credits. A study in 1963 found that after the birth of their first child, women left the paid labor force for an average of 10 years and that each additional child meant three more years at home.[34/] Since 1963, fertility rates have sharply declined and many more women with preschool children are working so that the length of interruptions from the paid labor force has probably been greatly reduced. Nonetheless, the length of a woman's absence from the labor market still may exceed her pre-break service, thereby causing the loss of credits for years worked before her first child.

Second, women who return to the same employer when reentering the market are disadvantaged by age and service requirements for plan participation. Plans may require employees to be 25 years or older to participate in the plan. Many women under age 25 are working before the birth of their first child. This rule shortens women's credited pre-break service and allows even fewer years to complete child care responsibilities and return to work before credits are lost.

Third, employees who work less than 1,000 hours per year may be excluded from a plan. In 1977, over 30 percent of female employees but only 12 percent of male employees worked less than 1,000 hours.[35/]

Fourth, most workers in defined benefit plans face a 10 year service requirement to gain full entitlement to benefits. Women's job tenure generally is shorter than men's and more women than men fail to meet the vesting qualifications. Preliminary estimates from a recent survey show that 41 percent of women compared to 51 percent of men who were covered by a pension plan had vested rights.[36/]

Fifth, benefit formulas that explicitly integrate with social security result in lower benefits for many women. Integrated pension formulas explicitly recognize an employee's social security benefit by using either a step-rate formula or a direct offset formula. A step-rate formula provides increasing pension accrual as income increases. In some cases, no credit is given for income below the social security taxable wage base. Such a formula would produce proportionately greater employee pension benefits for high income workers. A direct offset plan reduces the employee pension by a direct percentage of the individual's initial social security benefit. As low-income and short-service workers, women receive proportionately higher social security benefits and proportionately lower employee pensions.

Sixth, backloaded pension formulas provide relatively lower benefits to women workers. Backloaded pension formulas provide greater pension amounts for later years of employment compared with earlier years of employment. For example, the federal civil service pension plan provides a benefit equal to 1.5 percent of earnings for each of the first five years of service, 1.75 percent of earnings for each of the next 10 years of service, and 2.0 percent of earnings for the remaining years of service. Hence, a worker with 15 years of service at retirement receives a benefit equal to 25 percent of preretirement income, but a worker with 30 years of service receives 55 percent. Workers with shorter employment receive benefits that are proportionately less in backloaded pension plans.

Seventh, the use of sex-distinct mortality tables in defined contribution plans results in lower monthly benefits (or higher contributions) for women than men. Women, on an aggregate basis, are expected to live an average of four years longer than men at age 65 and, therefore, a given amount of money for retirement purposes must last longer for women than men. Therefore, compared with men with the same contributions and retirement age, women receive smaller monthly benefits in some plans. The use of sex-distinct mortality tables has been challenged on the grounds of

sex discrimination. Although several lower courts have ruled this practice unlawful, the Supreme Court has not made a definitive ruling on the use of sex-distinct tables. However, TIAA-CREF, the largest employer with a defined contribution plan, has recently replaced sex-distinct tables with unisex tables.

Options for Change

Expanding the Joint and Survivor Option. Several measures have been suggested as methods of encouraging greater survivor protection. Much controversy surrounds the fact that employees may decide to elect out of the survivor benefit option without consulting their spouses. It is argued that spouses should have a voice in or at least be informed of this decision. Some proposals would require joint and survivor annuities for all married people, automatically provide survivor benefit protection unless both spouses agree not to take the joint and survivor annuity, or inform both spouses of the terms for the joint and survivor provision as well as the election by the worker.

Elimination of the provision that prevents divorced spouses from receiving survivor protection could prevent hardship to many women. In some cases, the husband may wish to provide a survivor annuity to his former wife, but is prevented from doing so by the pension plan provisions. Without this provision, the courts would have greater flexibility in divorce settlements.

The Commission recommended in its interim report that the joint and survivor option be automatic for all married and divorced persons. In order to refuse the election, both husband and wife (and divorced spouses) would have to sign a waiver that is witnessed by the plan representative. The staff will investigate administrative problems with this recommendation. The Commission believes it is advisable that the waiver be witnessed by a plan representative in order to prevent abuses. Depending on how many couples choose to waive the option, this could significantly increase administrative procedures in some companies.

Several legislative proposals before Congress would provide automatic survivor benefit to spouses of workers who die before retirement with vested benefits. A recent Labor Department study estimated that automatic preretirement coverage would provide benefits to less than an additional 1 percent of widows age 55 and over. The average cost to employers who do not now provide this protection was estimated at an additional 4 percent of plan costs.[38/]

Opponents object, arguing that employer costs would increase and that if preretirement survivor benefits were required from the pension plan, then employers may respond by reducing group life insurance for their employees. It is expected that most spouses would prefer the immediate lump sum insurance benefit. Life insurance has the additional advantage of being inexpensive for young employees who are least likely to have survivor benefit coverage under the retirement plan.

However, life insurance protection would not apply to workers who leave employment but have a vested pension benefit. Once workers leave their employer, they are terminated from the group life insurance contract. Therefore, if the worker dies before retirement, the spouse is likely to receive no compensation from either the worker's prior employer or the pension plan in which he is vested.

The Commission recommended in its interim report that spouses of employees who die before retirement with a vested benefit should receive some survivor benefit, either from the pension plan or from life insurance. The staff will investigate the appropriate relationship between the two forms of survivor protection.

Earnings Sharing. An earnings sharing approach in employee pension plans would require that a property right in all pension assets acquired during marriage is divided equally between the spouses upon divorce. There has been explicit recognition of an earnings sharing approach to earned pension benefits in recent divorce settlements, particularly in community property states. There are several issues that need to be addressed if pension entitlement is split, including: how to allocate the pension

between the spouses, whether receipt of the nonemployee's pension share should be immediate or deferred and who should administer the distribution of the pension shares. While accepted practices are developing in California, no national consensus exists on pension entitlements upon divorce. These unresolved issues, which are the subject of the following discussion, are major obstacles to earnings sharing in other states.

In an attempt to encourage an equitable approach to dealing with spouse's pension rights in a divorce situation, the Commission recommended in its interim report that pensions be viewed as property. The Commission did not discuss issues related to implementing the recommendation and will consider them at a later date.

In some instances, allocating the pension entitlement between the spouses is not difficult. For example, earnings sharing is straightforward when the marriage exists during the employee's entire service under a plan. Assuming that marriage is an equal partnership, each spouse would receive one-half of the employee's pension.

When the pension is fully vested in a defined contribution plan, the account balance accrued during marriage can be equally divided between the spouses. When the account balance is not vested the courts have, rather arbitrarily, assigned a value to the nonvested benefit or have not valued the pension until it was vested.[39/] The latter approach delays the final divorce settlement.

Under defined benefit plans, allocating the pension is more complicated if some employment occurs either after or before the marriage. The difficulties arise in determining what value should be assigned to the pension accrued during marriage in plans where that value changes periodically until the worker retires. This occurs in final-average pay plans and plans that are amended prior to retirement. In final pay plans, the value of all service is calculated using the final average salary rate at retirement, which is typically the employee's highest rate due to inflation adjustments and merit increases. Similarly, plans that are amended prior to retirement may increase the value of a pension accrued during past service.

There are two general methods being used in California for allocating the pension entitlements in defined benefit plans: the so-called "time-rule" method and the "benefits-rule" method. The time-rule method treats the pension accrued at the time of allocation as if it were earned in equal parts each year and it divides between the spouses the amounts earned during the years of their marriage. For example, if a $1,000 per month pension was earned over a period of 40 years, 10 of which were spent in marriage, the nonemployee spouse would be awarded $125 per month ($1,000 multiplied by one quarter and divided by two). Recent California court decisions have allocated the pension entitlement according to this method[40/] and it has been proposed in Congressional legislation for federal employee retirement plans.

Under the benefits-rule method, the nonemployee spouse is awarded half of the difference between the employee's credited accrued benefit at the time of marriage and the benefit at the time of divorce. For example, if at the time of marriage the employee's accrued pension (determined as though the employee terminated his employment at that point of time and the benefit was fully vested) was $20 per month and at the time of the divorce the employee's accrued pension was $200 per month, the nonemployee spouse would be awarded $90 per month (one-half of $180). This value may be more or less than that determined under the time-rule method.

A related though distinct consideration in allocating the pension benefit is whether the spouse's pension share is taken immediately at the time of divorce or whether receipt is deferred until retirement. If the benefit is taken immediately, then the present value of the accrued benefit to date is calculated. Either the benefits-rule method or the time-rule method (applied only to past service) can be used. No future pay or service are assumed. If the benefit is deferred until retirement, either allocation method may be used, but the time-rule method considers the pay and service of the worker since the divorce because the final pension paid to the employee, rather than the pension accrued at the time of divorce, is allocated between the spouses.

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The time-rule and benefits-rule methods may result in significantly different values for the pension accrued during marriage, especially when the nonemployee spouse defers receipt until retirement. Figure 4 indicates the nonemployee spouse's monthly benefit under both the time-rule and benefit-rule methods for marriages covering various periods of an employee's career. This example assumes a typical final-pay defined benefit plan where the employee completes a 30-year career. Also, it is assumed that the former spouse defers receipt until retirement. Because receipt is deferred, the time-rule calculations take into account increased pay and service after the divorce.

As shown in Figure 4, the time-rule method produces the same pension value for the spouse regardless of when the marriage occurred. Therefore, a spouse married during the first 10 years of an employee's career would accrue the same interest in the employee's pension as a spouse married in the last 10 years of the employee's career.

The benefits-rule method, on the other hand, distinguishes between different years of marriage in calculating the former spouse's share of the pension. Under the benefits-rule method, the pension accrued generally is much smaller for marriages occurring during the early years of employment than during the latter years because the method does not consider future pay or service in determining the value of the benefit. In final pay plans, where the value of all prior service benefits increases with an increase in pay, the benefits-rule method assigns the increase to the year in which the pay raise occurs. In this example, salary increases are assumed to rise linearly. Therefore, the latter years of employment show a much larger accrual value than the earlier years of employment.

There are several considerations in determining whether the nonemployee spouse should take an immediate settlement or defer benefits until retirement. As discussed above, deferring receipt permits future pay and service to be taken into account if the time-rule method is used. In addition, deferral of the pension payment usually has the

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advantage of providing retirement income to the spouse and passing on to the spouse postretirement benefit increases adjusting for inflation.

On the other hand, immediate payment of the pension share has the advantage that the pension issue is resolved at settlement, avoiding continuation of a possible acrimonious relationship between the former spouses. Furthermore, the nonemployee spouse is assured payment. If payment is deferred, the nonemployee spouse assumes several risks. The pension plan could terminate with insufficient assets, which could result in nonpayment to some of the beneficiaries. The death of the employee spouse before retirement could result in nonpayment to the nonemployee spouse. This latter concern, however, would be eliminated under the Commission's recommendation that divorced spouses be included in survivor protection.

Another issue in divorce settlements is whether the employee or the employee's pension plan should be responsible for paying the nonemployee spouse's share of the pension benefit. Both practical and legal issues need to be considered for this decision.

If the spouse's share of the pension is deferred until the employee retires, then either the employee can provide the former spouse with a portion of the pension or the pension plan can divide the employee's pension according to the specifications in the divorce proceedings and mail two separate checks to the spouses. A disadvantage of having the employee distribute the pension to the former spouse is that the payment is subject to evasion. This action, though illegal, especially could be prevalent when retirement occurs many years after the divorce. On the other hand, requiring the pension plan to provide two payments would increase administrative costs for the plan.

If the spouse's share of the pension is paid immediately, then generally at divorce the employee in effect assumes responsibility for payment of the spouse's share of the pension by transferring to the spouse other property of equal value. An alternative to current practice is to have the pension plan make an immediate lump-sum distribution

to the spouse based on the employee's accrued benefits. To encourage the use of this income for retirement purposes, the lump-sum distribution could be placed in Individual Retirement Accounts (IRAs), permitting deferred taxes until the spouse reaches old age. This approach would require changing tax rules governing plan distributions and IRAs.

Whether the spouse's pension payment is immediate or deferred, there is some apprehension about requiring pension plans to administer the decision reached in a divorce settlement. It can be argued that employers should not be concerned about their employees' marital status. Involving the employer in a worker's divorce settlement, which could and probably would require further administrative work, promotes an employer's concern about the worker's marital status.

A legal issue also arises in this area. ERISA prohibits the assignment of a pension to anyone other than the employee. It is not clear, however, whether this prohibition applies to employees' families. In almost all court cases in which this objection has been raised, ERISA is interpreted as not applying the prohibition to an employee's spouse.[41/] Furthering this view, in one case the U.S. Department of Justice filed a brief as a friend of the court stating that ERISA does not prohibit assignment to the employee's family.[42/] Legislation proposed by the original sponsors of ERISA, Senators Williams and Javits, specifically stated that court-ordered alimony or support payments should not be affected or prohibited by ERISA's anti-assignment provision.[43/] Therefore, while the anti-assignment provision in ERISA does not appear to be an obstacle for involving the pension plan in payments to divorced spouses, there may continue to be a legal battle until the Supreme Court specifically rules on the issue or new legislation is passed.

Any recommended policy with regard to property rights in pensions for marital dissolutions must consider the perogatives of states and state courts in the family law area. It is important to recognize earned pension rights as property and to achieve a

climate where both the amount and value of pension benefits are determined in a reasonable and proper manner considering all pertinent issues.

Reduce Restrictions on Accrual of Pension Benefits. Women workers are particularly affected by various rules common in pension plans that limit benefit accruals to employees with long and continuous employment. Eliminating or reducing these restrictions, assuming no other changes, would increase pension payments to all workers, especially women workers. In conjunction with increasing benefits to more workers, employer costs would increase as well. Employers might respond to these changes by discontinuing their pension plans or reducing future benefits to all workers.

Some restrictions in pension plans particularly affect women workers because often they have discontinuous or partial attachment to the labor force, due to child care activities. Therefore, women are especially vulnerable to break-in-service rules, to participation requirements, and the 1,000 hours requirement. The results of these provisions are not likely to disappear in the future if women continue to play a major child-rearing role.

Formulas that explicitly integrate with social security, formulas that backload benefits, and vesting requirements affect women because of their low wages and short job tenure. While these employment effects in part result from women's interrupted work careers, it is expected that women's status and participation in the labor market will continue to improve. The low benefit accrual stemming from these provisions, then, could be self-correcting. However, inadequate retirement income for older women remains and as long as women's position in the labor market does not improve, women will continue to experience higher rates of poverty in old age than men.

Changes to these latter provisions could either increase costs significantly, force employers to readjust other aspects of their employee compensation packages, or result in a reduction in other workers' benefit levels over time. A full investigation of the effects these actions would bring requires further study.

III. CONCLUSION

The U.S. pension system has not provided adequate income to many elderly women and, without change, probably will not provide adequate income to a large segment of aged women in the future. While younger married women now experience higher rates of labor force participation, this will not necessarily insure their financial security in old age. Many women may still interrupt their work careers to raise children. This can result in inadequate retirement income for those who spend part of their careers as homeworkers and who later become divorced or widowed.

Questions of equity arise in both social security and employee pension plans. Presently social security favors the one-earner couple, which is a minority in today's society. Gains in women's employment do not always result in increases in their social security benefits. This is especially problematic for survivors of two-earner couples.

Employee pension plans traditionally have emphasized benefits for long-service and high-income workers. Short-service and low-income workers, which many women are, may receive little or perhaps no benefits on the basis of employment under a plan. Plan provisions affecting the distribution of pension income within the family also have been questioned. Divorced and widowed people often do not share in the pension asset that their former spouses acquired during marriage.

Proposals to improve the treatment of spouses under social security include those which would provide for child care drop-out years, explicit homeworker credits and earnings sharing, which could be combined with a double decker system. An earnings sharing approach is most comprehensive because it eliminates the spouse's benefit, directly confronts the problems of divorced spouses and with suitable modifications can deal adequately with survivors.

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It is expected that more women in the future will receive income from employee pension plans in their old-age. There have been recent changes in pension plans to improve survivor protection and to reduce restrictions in vesting and participation requirements. Because the survivors of workers are most often women and because women's interrupted work patterns make them particularly susceptible to pension plan restrictions, further changes in these areas could prevent financial hardship to many women in retirement. In addition, divorce settlements are just beginning to deal with pensions earned by the spouses during the marriage, though many legal and actuarial issues need resolution.

Before social security and employee pension plans can adequately serve the retirement needs of tomorrow's elderly population, these programs need to recognize the changing work patterns and family roles of both women and men. Increased labor participation by women, career interruptions by mothers and fathers and high divorce rates require that the retirement income systems accommodate a variety of lifestyles.

APPENDIX A [1/]

GENDER-BASED DISTINCTIONS IN THE SOCIAL SECURITY LAW

Currently the Social Security Act provides that men and women receive different treatment in the following circumstances:[2/]

1. Divorced Men and Women: Although benefits are provided for aged divorced wives, aged divorced widows, and disabled divorced widows, the statute does not provide benefits for aged divorced husbands, aged divorced widowers, or disabled divorced widowers (Social Security Act, Sections 202(b)(1), (c)(1), (e)(1), and (f)(1));

2. Young Fathers and Mothers: Benefits are payable to young wives, widowed mothers, and surviving divorced mothers who have children entitled to benefits in their care, but not to young husbands, widowed fathers, or surviving divorced fathers in similar circumstances (Social Security Act, Sections 202(g)(1), (b)(1), and (c)(1));

3. Remarriage of a Surviving Spouse Before Age 60: A widow who remarries before age 60 may receive benefits on a deceased husband's earnings if she is not married when she applies for benefits, while a widower who remarries before age 60 cannot get such benefits, even if the subsequent marriage has terminated (Social Security Act, Sections 202(e)(1) and (f)(1));

4. Transitional Insured Status: When Congress enacted the transitional insured status provisions in 1965 to provide special payments for persons who had not been able to work in covered employment long enough to qualify for benefits, wife's and widow's benefits were included in the provisions, but husband's and widower's benefits were not (Social Security Act, Section 227);

5. Special Age-72 Benefits: When both members of a couple are receiving special age-72 payments, the wife's payment is equal to one-half of the husband's payment even though each member must qualify for the payment individually (Social Security Act, Section 228(b));

6. Benefits For Spouses of Disabled Beneficiaries: If a disabled male beneficiary who is married to a dependent or a survivor beneficiary ceases to be disabled, the benefits of his spouse are terminated; however, if the disabled beneficiary is a female whose disability ends, the benefits to her spouse do not end 3/ (Social Security Act, Section 202(d)(5) et al);

[1] This is directly exerpted from Appendix D of the 1979 Social Security Advisory Council report.

[2] It should be noted that some of the gender-based distinctions remain in the statute, but are no longer implemented in fact because of successful challenges in the courts.

3/ For example, where two beneficiaries who have been disabled since childhood marry, their benefits continue; if the male recovers from his disability both benefits are terminated, while benefits for the male continue if the female recovers. Similarly, when a disabled worker is married to an aged survivor and recovers from his/her disability, termination of the spouse's benefits depends on the sex of the worker.

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7. Determination of Illegitimacy: In the few jurisdictions in which illegitimate children do not have the right to inherit the intestate personal property of their mothers, a woman's illegitimate child cannot qualify for social security benefits under the same conditions as a man's illegitimate child can (Social Security Act, Section 216(h)(3));

8. Waiver of Civil Service Survivor's Annuity: A widow can waive payment of a federal benefit attributable to credit for military service performed before 1957 to be able to have the military service credited toward eligibility for, or the amount of, a social security benefit, but a widower cannot (Social Security Act, Section 217(f)); and

9. Self-Employment in Community Property States: The income from a business operated by a husband and wife in a state which has a community property statute is deemed to belong to the husband unless the wife exercises substantially all of the management and control of the business (Social Security Act, Section 211(a)(5)(A)).

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APPENDIX B [1]

PROBLEMS WITH THE SOCIAL SECURITY SYSTEM

Discussion of Issues

This section discusses the major issues that have arisen under social security as a result of the increased labor-force participation of married women, the higher divorce rate, and the changing views about the roles of women. These issues can be divided into two general categories.

The first category concerns the adequacy of protection for women in various circumstances. The second category concerns the equitable treatment of different groups of beneficiaries and of contributors to the program. The issues are thus divided according to the adequacy and equity goals of the social security program discussed in the introduction to this chapter. Most of the issues are related to whether benefits for spouses should be based on the concept that such a spouse is a dependent of a paid worker.

Issues Related to Adequacy

The first category of issues concerns inadequacies and gaps in protection for women who spend all or a portion of their adult lives as homemakers. The issues generally arise from the growing acceptance of the perception that each spouse is an equal partner in a marriage and that each makes a valuable contribution to the marriage as a homemaker, a paid worker, or both.

1. The averaging period

   In order to assure that a person who has worked in covered jobs and paid social security taxes for many years gets a higher benefit than a short-term worker, earnings are averaged over the period the worker could reasonably be expected to have worked in covered employment. This method of computing benefits generally results in higher benefit amounts for workers who have had a longer period of work in covered employment.

   For a person reaching age 62 in 1979, retirement benefits will be based on indexed earnings averaged over a 23-year period. In 1991 and after, retirement benefits will be based on earnings averaged over a 35-year period.

[1] This is directly exerpted from a report by the Social Security Administration, Social Security and the Changing Roles of Men and Women.

This long averaging period generally results in lower average earnings for women than for men because married women typically spend time out of the paid labor force in homemaking and child-care activities. Table 1 shows the labor-force participation rates of married men and women.

Table 1

Labor-Force Participation Rates
of Married Men and Women
Living with Their Spouses

Year	Percent in Labor Force	
	Men	Women
1940	91%	14%
1950	90	22
1960	89	31
1970	86	40
1978	82	48

The labor-force participation rates of married women are lower for those with children, particularly for those with young children. Table 2 shows the labor-force participation rates of married women under age 55 with a husband present in the household by whether children were present and by age of child.

Table 2
Labor-Force Participation Rates of Married Women Who are under Age 55 and Living with Their Husbands

Year	Total	No Children under 18	With Children, by Age of Youngest 6-17	With Children, by Age of Youngest under 6
1949	1/	1/	26%	11%
1951	26% 2/	1/	30	14
1959	34 3/	52%	40	19
1970	45	60	49	30
1975	51	64	52	37
1977	54	65	56	39

1/ Not available

2/ 1950

3/ 1960

The percentage distribution of PIA by men and women workers who retired in 1976 is shown in Table 3. About 60percent of the women awarded worker's benefits in 1976 had PIA's of less than $220 as compared with only 21 percent of the men. In contrast, about 21 percent of the women and 64 percent of the men had PIA's of $280 or more. The difference in the percentage is due largely to the fact that women spend a considerable part of their working years in childcare and homemaker activities, and, when they do work, their wages are considerably lower than those of men.

Table 3

Distribution of Men and Women
Receiving Benefits at Various PIA Levels
Based on Retirements in 1976

PIA	Percentage Distribution 1/ Men	Women
Up to $159.90	10%	37%
$160.00-219.90	11	23
220.00-279.90	14	19
280.00-339.90	25	13
340.00 or more	39	8

1/ Totals do not add to 100 percent due to rounding.

2. Divorced persons

Divorced women may have little or no social security protection in their own right and may have social security protection only in the form of dependent's benefits based on their former husband's earnings.

The following concerns have been raised about the protection of divorced women who were full-time homemakers, worked in low-paying jobs, or worked only for a short period during the marriage:

a. A divorced person has no social security protection based on the marriage if it lasted less than 10 years even though it is during this 10-year period that a married women is most likely to leave the paid labor force to raise children. (Prior to 1979, the marriage had to last at least 20 years in order for the divorced spouse to get benefits.)

b. The divorced spouse's benefit of 50 percent of the former husband's PIA may be inadequate

for a person living alone since the spouse's benefit was intended as a supplement for a married couple. 6/

c. A divorced homemaker cannot receive divorced spouse's benefits until her divorced husband reaches age 62 and retires even though she is age 62 or over.

d. A divorced person's social security benefit as a worker may be low because of time spent out of the paid labor force during the marriage.

The last three of these concerns also apply to separated homemakers.

3. Aged surviving spouses

The issue with regard to aged widows and widowers is whether social security should assume a greater role in providing protection for aged surviving spouses (most of whom are widows). This issue arises because aged widows depend primarily on social security for support. As a group, they are likely to be poor. In 1976, the income of 30 percent of aged widows was below the poverty threshold as compared with the income of 9 percent of aged married couples.

Aged widows are more likely to be poor than retired married couples for a number of reasons including:

a. They are likely to have little earning capacity because of their advanced age--the average age of widow beneficiaries is about 75 and they are the oldest beneficiary group--or because they have been out of the labor force for a number of years or were lifelong homemakers.

6/ The situation of divorced women whose former husbands are deceased is generally somewhat better because the benefit is based on 100 percent of the deceased ex-spouse's PIA.

b. Few widows receive private pensions either because their husbands were not covered under pensions plans, or, if they were covered, the plans did not offer survivor's protection or the worker did not exercise the option to provide it.

c. Widows are more likely to receive benefits based on outdated earnings; they may reach age 60 from 5 to 10 years after their husbands died; thus their benefits are based on his earnings indexed (updated based on wage increases) to the year of his death and adjusted based on price increases thereafter. As a result, a widow's benefit is related to the standard of living that existed at the time of her husband's death, rather than the standard of living at the time she came on the benefit rolls. 7/

d. The problem of adequate income for widows is compounded by the fact that as a group they remain on the benefit rolls for many years and their benefits are adjusted according to increases in prices rather than wages, with the result that the purchasing power of the benefits is maintained. The standard of living of widows falls relative to that enjoyed by society as a whole.

7/ Increases in wages reflect both increases in prices and increases in productivity. Adjusting a widow's benefit by prices rather than wages means that her benefit will not reflect general increases in productivity that occur after her husband dies. (Earnings of retired workers are indexed based on the year they reach age 62 reflecting both price and productivity increases.)

4. Widows under age 60

Widows under age 60 who are not disabled and who do not have entitled children under age 18 (or disabled) in their care cannot receive social security benefits. Protection has not been provided for this group on the basis that such women can be expected to work and support themselves.

As a practical matter, though, lifelong homemakers (or women who have been out of the labor force for many years) who are widowed in late middle age may find it difficult or impossible to get a job, and any job they do secure is apt to be low paying. Even widows with job skills or younger widows may have difficulty finding a job immediately or may need a period of job retraining. For these reasons, widows under age 60 may need some kind of immediate income, at least for a short time, to help them adjust to the loss of their spouse's income. The issue then is whether social security is the appropriate vehicle to provide such income.

5. Recent work requirement for disability benefits

To be insured for social security disability benefits, a person needs 5 years of covered work out of the 10 years preceding onset of disability (20 quarters of coverage out of the last 40 calendar quarters). This 20/40 requirement is in addition to the fully insured status requirement.

The 20/40 test was specifically designed to exclude people who had no recent attachment to the covered work force. In its report on the Social Security Amendments of 1954, the House Committee on Ways and Means stated:

> The earnings requirements which must be met...are intended to limit the application of this provision to individuals who have had a reasonably long, as well as recent, record of covered earnings. They operate to screen out those who have not established a reasonably substantial attachment to the labor force and those who had voluntarily

retired from gainful activity, and had not been compelled to leave the labor force by reason of their disability.

People who leave the paid labor force for 5 or more years lose disability protection even though they have spent most of their lives in paid jobs. Also, once the protection is lost, up to 5 years of covered work are required to regain protection.

Since many married women leave paid employment for 5 years or more to meet family responsibilities, they, more than men, are adversely affected by the test. In some cases, they become disabled while out of the labor force and do not meet the 20/40 test but are unable to return to work to become eligible for disability benefits. In other cases, they return to work after more than 5 years out of the labor force but become disabled before working long enough to regain disability protection. In these cases, not only will the family have to replace homemaker services that were provided by the woman, but they also lose her wages.

Since homemaker and childcare services are increasingly recognized as having an economic value, concern has been expressed that married women workers lose disability protection when engaging in such activities.

5. Disabled homemakers

Homemakers who become disabled cannot get social security disability benefits even though the loss of their homemaking and childcare services may be costly for the family to replace and there may be additional expenses connected with their disability.

The situation is probably most acute in the case of separated and divorced homemakers since they are usually not supported by their husbands or former husbands. In some cases, these women become disabled before having the opportunity to get a covered job (or to work long enough to be insured for benefits) after the separation or

divorce occurred and may or may not be eligible for benefits under the supplemental security income program.

7. Disabled widows

Disabled widows and widowers cannot receive dependent's benefits unless they are age 50 or older, and their benefits are reduced to 50 percent of the deceased worker's PIA at age 50 and to 71.5 percent at age 60. The average monthly benefit paid to disabled widows was $166 in June 1978.

8. Deceased homemakers

No protection is provided under social security for survivors of deceased homemakers. In some cases, the death of a homemaker results in a financial hardship for the family, especially if there are young children. At the death of the homemaker, the lost childcare and homemaker services may be costly to replace.

Issues Related to Equity

The second category, addressing concerns of equity, is highlighted by the rapid increase in the number and proportion of married women who work in paid jobs. The present system of dependent spouse's benefits works well for a married couple when one spouse is a lifelong homemaker and the other is a lifelong paid worker--a situation which was much more typical in the 1930's when the social security program was established than it is today. Today many married women are employed throughout their lifetimes.

9. Duplication of protection

Women may find that the social security protection they earn as workers duplicates the protection they already have as spouses. Under the dual entitlement provision, a woman's benefit as a spouse or surviving spouse is reduced by the amount of her worker's benefit. The protection she receives based on the years she was a paid worker cannot be added to the protection based on the years she was an unpaid homemaker. As a result, an employed woman

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may get no, or only slightly higher, benefits than she would have received as a dependent if she had never worked. 8/

10. One- and two-earner couples

The treatment of two-earner couples compared to one-earner couples is viewed by some as unfair. This issue arises due to the payment of dependent's benefits to spouses who never worked in covered jobs (or had very low earnings). Since spouse's benefits are not payable to two-earner couples (unless one spouse has low average indexed monthly earnings (AIME)), a two-earner couple generally receives lower total benefits than a one-earner couple with the same total AIME. Benefits for two-earner couples with the same AIME can also vary depending on the proportion of the total AIME earned by each spouse within the couple.

For example, a one-earner couple each age 62 in 1980 with AIME of $1,000 would have a benefit of $648 (a worker's benefit of $432 plus a spouse's benefit of $216). If each spouse had one-half of the earnings, the benefit would be $544. (Each would receive a worker's benefit of $272.) The initial benefits and replacement rates (benefits as a percentage of AIME) for couples with the same total AIME by the proportion of the earnings that each spouse has are shown in Table 4.

However, even if the spouse's benefit were eliminated, there would still be differences in benefit amounts for two-earner couples when the spouses earn different proportions of the couple's total

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8/ Married women who are insured for benefits in their own right have survivorship and disability protection not available to unpaid homemakers.

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earnings because of the effects of the weighted benefit formula which provides higher replacement rates for workers with low average earnings and because of the existence of the minimum benefit. 9/

11. Aged survivors of one- and two-earner couples

The payment of widow's and widower's benefits equal to 100 percent of the basic benefit (PIA) of the spouse with the higher AIME leads to situations that may be regarded as unfair. The larger the proportion of the couple's earnings that was earned by one spouse, the higher the benefit for the aged survivor. As in the case of couples, the survivor of a two-earner couple generally gets a lower benefit than the survivor of a one-earner couple with the same total AIME. For example, at AIME of $1,000, the aged survivor's benefit is $432 if only one spouse was a paid worker and only $272--$160 less--if each spouse had AIME of $500 for a total of $1,000. (See Table 5 for additional examples.)

In addition, the surviving spouse of a one-earner retired couple gets as much as two-thirds of the total benefits that the couple was receiving, while the survivor of a two-earner couple gets as little as 50 percent when the spouses had equal earnings. This result occurs regardless of which spouse dies---the low paid (or unpaid) spouse or the higher earner. The 50-percent benefit cut can create a financial hardship for the survivor since basic living expenses (such as housing and utilities) do not necessarily decrease when one spouse dies.

9/ The initial minimum benefit is $122. It is payable to workers whose AIME are less than $136. Once a person starts receiving a minimum benefit, it is automatically increased based on increases in the Consumer Price Index.

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The survivor probably needs more than 50 percent of the income of the couple to maintain a similar standard of living. Therefore, the benefit for the survivor of a two-earner couple can be viewed as less adequate than the benefit for the survivor of a one-earner couple.

12. Married and single workers

The social security system provides greater protection for married couples where one spouse is not a paid worker, or is low paid, than for single workers, although all workers pay social security taxes at the same rate. Because of the spouse's benefit, a one-earner couple gets benefits that are one and one-half times the benefit of a single worker, all other things being equal.

Dependent's benefits were originally provided for unpaid spouses because it was recognized that the cost of living is greater for two persons than for one. Some have contended that the 50 percent increment for a spouse is more than is necessary to support a second person or that the additional amount for the second person should not necessarily rise as the worker's earnings rise. There is no consensus as to what would constitute an appropriate increment.

Although spouse's benefits were originally provided as a supplement for workers who had dependent spouses, this benefit could be supported on the grounds that the homemaker services performed by nonpaid spouses have an economic value. However, since the spouse's benefit is provided without any additional tax payment, it nevertheless results in differential treatment between married and single workers.

APPENDIX C

ERISA MINIMUM STANDARDS

Participation Requirements

All eligible employees age 25 or older with one year of service (or three years of service with full and immediate vesting) must be covered by the plan. However, any employee who is less than five years away from normal retirement may be excluded from pension plans that provide fixed benefits.

Vesting Requirements

Employers have three vesting alternatives:

Cliff vesting--Full vesting after 10 years of service, with no vesting before then.

Graded vesting--25 percent vesting after 5 years of service, 5 percent for each additional year up to 10 years, plus an additional 10 percent for each year thereafter (benefits will be 100 percent vested after 15 years of service).

Rule-of-45 vesting--50 percent vesting for an employee with at least 5 years of service when his or her age and years of service add up to 45, plus 10 percent for each additional year up to 5 years.

-For contributory plans, the employer portion must vest even when the employee withdraws his contributions if his accrued benefits are 50 percent or more vested.

-Benefits payable to vested former employees must be available at early retirement dates under the same age and service requirements that apply to active employees.

Credited Service

A year of service must be credited for employees who work at least 1,000 hours in a 12 consecutive-month period.

Breaks in Service

-Plans may not recognize breaks in service which are shorter than one year.

-If benefits earned before the break in service are vested, both pre- and post-break service must then be added for all purposes.

-Employees in defined benefit plans with breaks in service greater than one year with totally nonvested benefits are subject to the "rule of parity". Employees may lose credits for pre-break service when the number of years of break equals or exceeds the number of years or pre-break service.

Defined contribution plans or plans funded solely by insurance contract: If benefits are totally nonvested a 1-year break is incurred, and pre-break service exceeds the number of years of break, the plan must count pre-break service towards vesting of

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Table 4

Total Monthly Benefits for Married Couples under Present Law and Couple's Benefits as a Percentage of Couple's AIME by Proportion of AIME Earned by Each Spouse 1/

Total AIME	Couple's Benefits by Proportion of AIME Earned by Each Spouse				Couple's Benefits as a Percentage of Couple's AIME by Proportion of AIME Earned by Each Spouse			
	1-0	5/6-1/6	2/3-1/3	1/2-1/2	1-0	5/6-1/6	2/3-1/3	1/2-1/2
$250	$288	$300	$272	$244	115%	120%	109%	98%
500	408	368	368	384	82	74	74	77
750	528	468	464	464	70	62	62	62
1,000	648	568	544	544	65	57	54	54
1,250 2/	746	668	624	624	60	53	50	50
1,500 2/	802	746	704	704	53	50	47	47
1,750 2/	859	794	784	784	49	45	45	45
2,000 2/	915	840	835	864	46	42	42	43

1/ Unless otherwise stated, all charts, graphs, tables, or examples used in this report show PIA's for January 1980 based on wage-indexed earnings for workers age 62 in 1980. Married couple's benefits are computed on the assumption of a lifelong marriage of two people both age 62 in 1980. The 1978 Trustees' Report alternative II economic assumptions were used in computing the benefits (without regard to any transitional guarantees provided under the 1977 amendments). The amounts actually paid in 1980 will depend on changes in the economy between now and then.

2/ AIME and benefits at these levels are not possible for one worker reaching age 62 in 1980. (The AIME for a maximum earner age 62 in 1980 is projected to be $1,189.)

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Table 5

Monthly Benefits for Survivors of Retired Couples Under Present Law and Survivor's Benefits as a Percentage of the Couple's Benefit by Proportion of AIME Earned by Each Spouse

Total AIME	Survivor's Benefits by Proportion of AIME Earned by Each Spouse 1/				Survivor's Benefits as a Percentage of Couple's Benefits by Proportion of AIME Earned by Each Spouse			
	1/0	5/6-1/6	2/3-1/3	1/2-1/2	1/0	5/6-1/6	2/3-1/3	1/2-1/2
$ 250	$192	$178	$149	$122	67%	67%	55%	50%
500	272	245	218	192	67	67	59	50
750	352	312	272	232	67	67	59	50
1,000	4[illegible]	378	325	272	67	67	60	50
1,250 2/	497	445	378	312	67	67	61	50
1,500 2/	535	497	432	352	67	67	61	50
1,750 2/	572	529	485	392	67	67	62	50
2,000 2/	610	560	510	432	67	67	61	50

1/ The benefit amount is the same regardless of whether the high or low earner dies.

2/ AIME and benefits at these levels are not possible for one worker reaching age 62 in 1980.

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benefits earned after the break, but it may provide a forfeiture of all benefits earned before the break.

In the case of partially vested benefits, if a participant incurs a 1-year break in service and then returns to employment covered by the plan, the plan is permitted to provide that the pre-and post-break service are added only for the purpose of vesting benefits accrued after the return to employment. The result is that those partially vested benefits earned before the break remain frozen at that partial vesting.

Benefit Accrual

A defined benefit pension plan (other than one funded exclusively through insurance contracts) must have a procedure for determining accrued benefits which satisfies one of three alternative benefit accrual formulas specified by ERISA. These formulas limit the amount of "back loading" (providing a higher rate for the accrual of benefits for the later years of service than for earlier years). ERISA does not require defined benefit plans to provide the same rate of benefit accrual for each year of service. They are allowed to provide a higher rate for the accrual of benefits for later years than for earlier years of service, but ERISA sets limits on the amount of back loading so that these plans generally are not permitted to unduly restrict the rate for accruing credits in early years and reserve the sizeable accumulations for later years. Under one of the three alternative formulas, early years of service may accrue only a specified proportionately smaller retirement benefit than later years—the amount of benefit credits for a later year of service cannot be more than 1 1/3 times the amount of benefits credited for the current years. For example, a worker could be credited with 1.5 percent of annual pay for the first 10 years and 2 percent for the remaining years. Under another formula, the benefits are allotted at a flat rate of at least 3 percent of the projected normal retirement benefit for each year of participation, to a maximum of 100 percent after 33 1/3 years of participation. The remaining alternative is to gear the accrued benefit to a worker's proportionate time under the plan, so that, for example, if an employee's maximum possible period of accrual would have been 40 years from the date of beginning plan participation to the date of the plan's normal retirement age (from 25-65), the worker starting under the plan at age 25 and working to 60 would get 35/40 (or 7/8) of the maximum credit toward a pension.

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APPENDIX 2

STATEMENT OF OLIVE M. ALLEN

Mr. Chairman, Congresswoman Oakar, and other Dignitaries, thank you for this great opportunity to testify as to the effect of the President's Proposals to cut Social Security.

I am Olive Allen, a Senior Citizen from Lakewood, Ohio, who recently recieved an award for voting for the past fifty years.

President Ronald Reagan promised in campaigning and the first days of his Presidency he would make no cuts in Social Security. He said he would let it alone. But action has already taken place in Social Security and private pensions effected by it. I have received several months of cuts in income from Railroad Retirement, and for those persons and myself on low fixed incomes, it means *devastation.* Social Security and other pensions are not welfare, but were paid into during working years for future retirement, and survivor's security.

TESTIMONY OF ETHEL YOUNG, OUTREACH WORKER FOR HARVARD COACH LIGHT

Each week I am faced with assessing needs of elderly seniors who need supportive home health and nutrition services. Many of these people have invested their entire life into their home, but they are penalized for wishing to have pride of independence. Many of them have no children or spouse living and therefore their only hope is what supportive service like Harvard Coach light nutrition center can offer. These people need guaranteed home health assistance which would allow them to live the remaining of their lives in their home, with leisure and contentment.

I am asking that the home health aid program funding under title XX be expanded and eligibility criteria be revised to help people to help themselves man cannot live by bread alone.

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